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Report of the International Court of Justice

1 August 2007-31 July 2008

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Note

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Chapter I

Summary

1. The International Court of Justice, the principal judicial organ of the United Nations, consists of 15 judges elected for a term of nine years by the General Assembly and the Security Council. Every three years, one third of the seats falls vacant. The next elections to fill such vacancies will be held in the last quarter of 2008.

2. The present composition of the Court is as follows: President, Rosalyn Higgins (United Kingdom of Great Britain and Northern Ireland); Vice President, Awn Shawkat Al-Khasawneh (Jordan); and Judges Raymond Ranjeva (Madagascar), Shi Jiuyong (China), Abdul G. Koroma (Sierra Leone), Gonzalo Parra-Aranguren (Venezuela), Thomas Buergenthal (United States of America), Hisashi Owada (Japan), Bruno Simma (Germany), Peter Tomka (Slovakia), Ronny Abraham (France), Kenneth Keith (New Zealand), Bernardo Sepúlveda-Amor (Mexico), Mohamed Bennouna (Morocco) and Leonid Skotnikov (Russian Federation).

3. The Registrar of the Court is Philippe Couvreur, a national of Belgium. On 9 October 2007, the Court elected Thérèse de Saint Phalle, a national of the United States of America and France, as its Deputy Registrar for a term of seven years beginning 19 February 2008.

4. The number of judges ad hoc chosen by States parties in cases during the period under review was 24, with the functions carried out by 19 individuals (the same person on occasion being appointed to sit as judge ad hoc in more than one case).

5. The International Court of Justice is the only international court of a universal character with general jurisdiction. That jurisdiction is twofold.

6. In the first place, the Court has to decide upon disputes freely submitted to it by States in the exercise of their sovereignty. In this respect, it should be noted that, as at 31 July 2008, 192 States were parties to the Statute of the Court and that 66 of them had deposited with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction in accordance with Article 36, paragraph 2, of the Statute. Further, some 300 bilateral or multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of their application or interpretation. States may also submit a specific dispute to the Court by way of special agreement. Finally, a State, when submitting a dispute to the Court, may propose to found the Court's jurisdiction upon a consent yet to be given or manifested by the State against which the application is made, in reliance on article 38, paragraph 5, of the Rules of Court. If the latter State then accepts such jurisdiction, the Court has jurisdiction and this produces the situation known as *forum prorogatum*.

7. Secondly, the Court may also be consulted on any legal question by the General Assembly or the Security Council and, on legal questions arising within the scope of their activities, by other organs of the United Nations and agencies so authorized by the General Assembly.

8. Over the past year, the number of cases pending before the Court has remained high. The Court handed down four judgments and one order on a request for the indication of provisional measures (see paras. 12-16 below). Further, it held

hearings in the following four cases: *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*; *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*; and *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) (*Mexico* v. *United States of America*) (provisional measures). As at 31 July 2008, the number of cases on the docket stood at 12.[1]

9. The contentious cases come from the world over: currently, three are between European States, five others between Latin American States, and two between African States, while two are of an intercontinental character. This regional diversity illustrates the Court's universality.

10. The subject matter of these cases is extremely varied. In addition to standard territorial and maritime delimitation disputes and disputes relating to the treatment of nationals by other States, the Court is seized of cases concerning more cutting-edge issues, such as allegations of massive human rights violations, including genocide, or the management of shared natural resources.

11. Cases referred to the Court are growing in factual and legal complexity. In addition, they frequently involve a number of phases as a result of preliminary objections by the respondents' to jurisdiction or admissibility and of requests for the indication of provisional measures, which have to be dealt with as a matter of urgency.

12. During the period under review, the Court on 8 October 2007 handed down its judgment in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*. In respect of sovereignty over the islands of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay, located in the area in dispute, the Court concluded that it had not been established that either Honduras or Nicaragua had title to those islands by virtue of *uti possidetis juris*. Having then sought to identify any post colonial *effectivités*, the Court found that sovereignty over the islands belonged to Honduras, as it had shown that it had applied and enforced its criminal and civil law, had regulated immigration, fisheries activities and building activity and had exercised its authority in respect of public works there. As for the delimitation of the maritime areas between the two States, the Court found that no established boundary existed along the 15th parallel on the basis of either *uti possidetis juris* or a tacit agreement between the parties. It therefore determined the delimitation itself. Given the impossibility of applying the equidistance method in view of the particular geographical circumstances, the Court drew a bisector (i.e., the line formed by bisecting the angle created by the linear approximations of the coastlines) with an azimuth of 70° 14' 41.25". It adjusted the course of the line to take account of the territorial seas accorded to the aforementioned islands and to resolve the issue of overlap between those territorial seas and that of the island of Edinburgh Cay (Nicaragua) by drawing a median line. In specifying the starting point of the maritime boundary between Nicaragua and Honduras, the Court, taking account of

[1] The Court delivered its Judgment in the case concerning *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Uganda*) in December 2005. The case nevertheless technically remains pending, in the sense that the parties could again turn to the Court to decide the question of reparation if they are unable to agree on this point.

the continuing eastward accretion of Cape Gracias a Dios (a territorial projection and the point where the coastal fronts of the two States meet) as a result of alluvial deposits by the River Coco, decided to fix the point on the bisector at a distance of three nautical miles out to sea from the point which a mixed demarcation commission in 1962 had identified as the endpoint of the land boundary in the mouth of the River Coco. The Court instructed the parties to negotiate in good faith with a view to agreeing on the course of a line between the present endpoint of the land boundary and the starting point of the maritime boundary thus determined. In respect of the endpoint of the maritime boundary, the Court stated that the line which it had drawn continued until it reached the area where the rights of certain third States might be affected.

13. On 13 December 2007, the Court handed down its judgment on the preliminary objections to its jurisdiction raised by Colombia in the case concerning *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. After careful consideration of the parties' arguments, the Court found that the treaty signed by Colombia and Nicaragua in 1928 (by which Colombia recognized Nicaraguan sovereignty over the Mosquito Coast and the Corn Islands, while Nicaragua recognized Colombian sovereignty over the islands of San Andrés, Providencia and Santa Catalina and over the other maritime features forming part of the San Andrés archipelago) settled the issue of sovereignty over the islands of San Andrés, Providencia and Santa Catalina within the meaning of the American Treaty on Pacific Settlement (known also as the Pact of Bogotá), invoked by Nicaragua as a basis of jurisdiction in the case, that there was no extant legal dispute between the parties on the question and that the Court could therefore have no jurisdiction on that point. On the other hand, as regards the question of the scope and composition of the rest of the San Andrés archipelago, the Court considered that the 1928 treaty failed to provide answers as to which other maritime features formed part of the archipelago. The Court thus held that it had jurisdiction, under the Pact of Bogotá, to adjudicate on the dispute regarding sovereignty over those other maritime features. As for its jurisdiction with respect to the maritime delimitation issue, the Court concluded that the 1928 treaty (and the 1930 Protocol of Exchange of Ratifications) had not effected a general delimitation of the maritime boundary between Colombia and Nicaragua and that, as the dispute had not been settled within the meaning of the Pact of Bogotá, the Court had jurisdiction to adjudicate upon it. The Court thus upheld preliminary objections of Colombia to its jurisdiction only insofar as they concerned sovereignty over the islands of San Andrés, Providencia and Santa Catalina.

14. On 23 May 2008, the Court delivered its judgment in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*. The Court first indicated that the Sultanate of Johor (predecessor of Malaysia) had had original title to Pedra Branca/Pulau Batu Puteh, a granite island on which Horsburgh lighthouse stands. It concluded, however, that when the dispute crystallized (1980), title had passed to Singapore, as attested to by the conduct of the parties (in particular certain acts performed by Singapore *à titre de souverain* and the failure of Malaysia to react to the conduct of Singapore). The Court consequently awarded sovereignty over Pedra Branca/Pulau Batu Puteh to Singapore. As for Middle Rocks, a maritime feature consisting of several rocks that are permanently above water, the Court observed that the particular circumstances which had led it to find that sovereignty over Pedra Branca/Pulau Batu Puteh rested

with Singapore clearly did not apply to Middle Rocks. It therefore found that Malaysia, as the successor to the Sultan of Johor, should be considered to have retained original title to Middle Rocks. Finally, with respect to the low-tide elevation South Ledge, the Court noted that it fell within the apparently overlapping territorial waters generated by Pedra Branca/Pulau Batu Puteh and by Middle Rocks. Recalling that it had not been mandated by the parties to delimit their territorial waters, the Court concluded that sovereignty over South Ledge belonged to the State in whose territorial waters it lay.

15. On 4 June 2008, the Court handed down its judgment in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*. This was the first occasion it fell to the Court to pronounce on a dispute brought before it by an application based on article 38, paragraph 5, of the Rules of Court (*forum prorogatum*, see para. 6 above). The Court began by considering its jurisdiction in the case. It found jurisdiction to adjudicate upon the disputes concerning: execution of the letter rogatory addressed by Djibouti to France on 3 November 2004; the summons as witness addressed to the President of Djibouti on 17 May 2005, and the summonses as *témoins assistés* (legally assisted witnesses) addressed to two senior Djiboutian officials on 3 and 4 November 2004 and 17 June 2005; as well as the summons as witness addressed to the President of Djibouti on 14 February 2007. On the other hand, it held that it lacked jurisdiction to adjudicate upon the dispute concerning the arrest warrants issued against two senior Djiboutian officials on 27 September 2006. With respect to the final submissions of Djibouti on the merits, in particular the alleged violations of the Convention on Mutual Assistance in Criminal Matters of 27 September 1986 between the two parties, the Court first found that Djibouti could not rely on the principle of reciprocity in seeking execution of the international letter rogatory it submitted to the French judicial authorities as no such obligation appears anywhere in that Convention. The Court added that France was not under an obligation, pursuant to article 3 of the Convention, to transmit the Borrel file to Djibouti because, while "the obligation to execute international letters rogatory ... is to be realized in accordance with the procedural law of the requested State" and while that State must "ensure that the procedure is put in motion", it does not thereby guarantee the outcome. The Court further found that the reasons given by the French investigating judge, Ms. Clément, for refusing the request for mutual assistance fell within the scope of article 2 (c) of the Convention, which entitles the requested State to refuse to execute a letter rogatory if it considers that execution is likely to prejudice its sovereignty, its security, its *ordre public* or other of its essential interests. The Court did, however, conclude that, as no reasons were given in the letter dated 6 June 2005 whereby France informed Djibouti of its refusal to execute the letter rogatory presented by the latter on 3 November 2004, France had failed to comply with its international obligation under article 17 of the 1986 Convention on Mutual Assistance in Criminal Matters to provide reasons. The Court determined that the finding of that violation constituted appropriate satisfaction. It rejected all of the other claims of Djibouti, in particular those concerning alleged attacks on the jurisdictional immunities and honour or dignity of the Djiboutian Head of State, and on the immunities said to be enjoyed by the Procureur de la République and the Head of National Security of Djibouti.

16. Finally, on 16 July 2008, the Court ruled on a request for the indication of provisional measures submitted by Mexico within the context of a request for

interpretation of the judgment rendered by the Court on 31 March 2004 in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*. In its order, the Court stated that the United States was to take "all measures necessary" to ensure that five Mexican nationals "are not executed pending judgment on the request for interpretation" submitted by Mexico, "unless and until [they] receive review and reconsideration consistent with paragraphs 138 to 141 of the Court's judgment delivered on 31 March 2004 in the case concerning *Avena and Other Mexican Nationals*". The Court also held that the United States was to inform it of "the measures taken in implementation" of the order.

17. The judicial year 2007/08 was a busy one, six cases having been under deliberation at the same time, and the judicial year 2008/09 will also be very full. In this connection, the Court has already announced the opening date of the oral proceedings in the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*.

18. This sustained level of activity on the part of the Court has been made possible by the Court's willingness to take a significant number of steps to increase its efficiency and thereby enable it to cope with the steady increase in its workload. After having in 2001 adopted its first practice directions for use by States appearing before it, the Court has regularly re-examined them and occasionally added to them as part of its ongoing review of its proceedings and working methods. Moreover, anxious to enhance its productivity, it has decided to hold, on a regular basis, meetings devoted to strategic planning of its work. It has set itself a particularly demanding schedule of hearings and deliberations, so that several cases can be under consideration at the same time. This is how the Court has been able to clear its backlog of cases. States considering coming to the Court can now be confident that, as soon as they have finished their written exchanges, the Court will be able to move to the oral proceedings in a timely manner.

19. To sustain its efforts, the Court requested the creation of nine law clerk posts, an additional post for a senior official in the Department of Legal Matters and a temporary post of indexer/bibliographer in the Library of the Court for the 2008-2009 biennium. While the latter two posts were granted, for which the Court is grateful to the General Assembly, only three of the nine law clerk posts were approved. Yet they remain as necessary as ever in order to enable each member of the Court to benefit from personalized legal support and thus to devote more time to reflection and deliberation. In this respect, it should be noted that the sustained pace of work of the Court, which has made it possible to ensure that States obtain justice without unacceptable delay, cannot be kept up without such assistance. Thus, as has been pointed out in recent years, it is surprising that the International Court of Justice, designated in the Charter as the principal judicial organ of the United Nations, is the only major international court or tribunal not to receive this form of assistance. In its budget submission for the 2010-2011 biennium, the Court will therefore reiterate its request for the creation of the six law clerk posts that have yet to be granted to it. Further, the Court will note that the General Assembly has unfortunately not provided it with the means to create an effective Documents Division by merging the Library and the Archives Division. It will therefore resubmit the request for a post reclassification which, by itself, would make it possible to implement the merger for the sake of greater productivity.

20. The Court will also include in its budget submission an additional appropriation for reinforcing Registry staff. It will also request a significant amount for the replacement and modernization of the conference systems and audio-visual equipment in its historic courtroom, the Great Hall of Justice, and adjoining rooms (including the Press Room), which will be entirely renovated in cooperation with the Carnegie Foundation, which owns the Peace Palace. The amount requested will also cover the installation of the most up-to-date information technology on the judges' bench, and on the tables occupied by the parties to cases; while all of the international tribunals have adopted this technology in recent years, the Court is still without it.

21. With respect to the revision of the conditions of service of its members, the Court has noted with appreciation that the General Assembly met the concerns expressed by the Court during the year under review with regard to General Assembly resolution 61/262 of 4 April 2007. It is grateful to the General Assembly for having resolved this matter by its decision 62/547 of 3 April 2008. The Court nonetheless now fears that the proposed pension scheme for judges in service and for retired judges and their dependents may lead to a decrease in real terms because the pension would be calculated on the basis of the annual net base salary excluding post adjustment. In addition, the Court notes that, notwithstanding its repeated requests, no mechanism is yet in operation to adjust effectively for cost-of-living increases and fluctuations in the value of the United States dollar. It therefore foresees a further significant decline in the years ahead in the purchasing power of retired judges and their surviving spouses, in particular those residing in the euro zone. The Court is counting on the understanding of the General Assembly quickly in taking the necessary action in this respect.

22. Finally, the Court will avail itself of the opportunity furnished by the submission of its annual report to the General Assembly to comment on the Court's current role in promoting the rule of law, as it was invited to do by the General Assembly in resolution 62/70 of 6 December 2007. In February 2008, the Court completed the questionnaire received from the Codification Division of the Office of Legal Affairs to be used to prepare an inventory. In this connection, it should be kept in mind that the Court, as a court of justice and, moreover, the principal judicial organ of the United Nations, occupies a special position. The Court need hardly point out that everything it does is aimed at promoting the rule of law: it hands down judgments and gives advisory opinions in accordance with its Statute, which is an integral part of the Charter (see chap. V below), and it ensures the greatest possible global awareness of its decisions through its publications and its website, revamped in 2007 to include the entire jurisprudence of the Court and its predecessor, the Permanent Court of International Justice (see chap. VIII). The members of the Court, the Registrar and the Information Department regularly give presentations on the Court (see chap. VII). Furthermore, the Court sees a very great number of visitors every year (see chap. VI). Finally, the Court offers an internship programme enabling students from various backgrounds to familiarize themselves with the institution and further their training in international law.

23. In conclusion, the International Court of Justice welcomes the reaffirmed confidence that States have shown in the Court's ability to resolve their disputes. The Court will give the same meticulous and impartial attention to cases coming before it in the forthcoming year as it has during the 2007/08 session.

Chapter II
Organization of the Court

A. Composition

24. The present composition of the Court is as follows: President, Rosalyn Higgins; Vice-President, Awn Shawkat Al-Khasawneh; and Judges Raymond Ranjeva, Shi Jiuyong, Abdul G. Koroma, Gonzalo Parra-Aranguren, Thomas Buergenthal, Hisashi Owada, Bruno Simma, Peter Tomka, Ronny Abraham, Kenneth Keith, Bernardo Sepúlveda-Amor, Mohamed Bennouna and Leonid Skotnikov.

25. The Registrar of the Court is Philippe Couvreur. The Deputy Registrar is Thérèse de Saint Phalle.

26. In accordance with Article 29 of the Statute, the Court annually forms a Chamber of Summary Procedure, which is constituted as follows:

Members:

President Higgins
Vice-President Al-Khasawneh
Judges Parra-Aranguren, Buergenthal and Skotnikov

Substitute members:

Judges Koroma and Abraham.

27. In the case concerning the *Gabčíkovo Nagymaros Project (Hungary/Slovakia)*, Judge Tomka having recused himself under Article 24 of the Statute of the Court, Slovakia chose Krzysztof J. Skubiszewski to sit as judge ad hoc.

28. In the case concerning *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*, Guinea chose Mohammed Bedjaoui and the Democratic Republic of the Congo Auguste Mampuya Kanunk'a Tshiabo to sit as judges ad hoc. Following the resignation of Mr. Bedjaoui, Guinea chose Ahmed Mahiou to sit as judge ad hoc.

29. In the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*, the Democratic Republic of the Congo chose Joe Verhoeven and Uganda James L. Kateka to sit as judges ad hoc.

30. In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)*, Croatia chose Budislav Vukas and Serbia Mr. Milenko Kreća to sit as judges ad hoc.

31. In the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*, Nicaragua chose Giorgio Gaja and Honduras Julio González Campos to sit as judges ad hoc. Following the resignation of Mr. González Campos, Honduras chose Santiago Torres Bernárdez to sit as judge ad hoc.

32. In the case concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*, Nicaragua chose Mohammed Bedjaoui and Colombia Yves L. Fortier to sit as judges ad hoc. Following the resignation of Mr. Bedjaoui, Nicaragua chose Giorgio Gaja to sit as judge ad hoc.

33. In the case concerning *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)*, the Republic of the Congo chose Jean Yves de Cara to sit as judge ad hoc. Judge Abraham having recused himself under Article 24 of the Statute of the Court, France chose Gilbert Guillaume to sit as judge ad hoc.

34. In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, Malaysia chose Christopher J. R. Dugard and Singapore chose Sreenivasa Rao Pemmaraju to sit as judges ad hoc.

35. In the case concerning *Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)*, Romania chose Jean Pierre Cot and Ukraine Bernard H. Oxman to sit as judges ad hoc.

36. In the case concerning *Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)*, Costa Rica chose Antônio Augusto Cançado Trindade and Nicaragua Gilbert Guillaume to sit as judges ad hoc.

37. In the case concerning *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*, Argentina chose Raúl Emilio Vinuesa and Uruguay Santiago Torres Bernárdez to sit as judges ad hoc.

38. In the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti* v. *France)*, Djibouti chose Abdulqawi Ahmed Yusuf to sit as judge ad hoc. Judge Abraham having recused himself under Article 24 of the Statute of the Court, France chose Gilbert Guillaume to sit as judge ad hoc.

39. In the case concerning *Maritime Dispute (Peru* v. *Chile)*, Peru chose Gilbert Guillaume to sit as judge ad hoc.

B. Privileges and immunities

40. Article 19 of the Statute of the Court provides: "The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities".

41. In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, the members of the Court enjoy, generally, the same privileges, immunities, facilities and prerogatives as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 6*, pp. 204-211 and 214-217).

42. By resolution 90 (I) of 11 December 1946 (ibid., pp. 210-215), the General Assembly approved the agreements concluded with the Government of the Netherlands in June 1946 and recommended that:

> if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there;

and that

> judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and

again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys.

43. In the same resolution, the General Assembly recommended that the authorities of Members of the United Nations recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General.

44. Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

Chapter III
Jurisdiction of the Court

A. Jurisdiction of the Court in contentious cases

45. On 31 July 2008, the 192 States Members of the United Nations were parties to the Statute of the Court.

46. Sixty-six States have now made declarations (many with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Costa Rica, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Senegal, Slovakia, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The texts of the declarations filed by the above States are available on the Court's website (http://www.icj-cij.org).

47. Lists of treaties and conventions which provide for the jurisdiction of the Court are also available on the Court's website. Some 128 multilateral conventions and 166 bilateral conventions are currently in force.

B. Jurisdiction of the Court in advisory proceedings

48. In addition to the United Nations organs (General Assembly and Security Council — which are authorized to request advisory opinions of the Court "on any legal question" — Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly), the following organizations are at present authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities:

International Labour Organization

Food and Agriculture Organization of the United Nations

United Nations Educational, Scientific and Cultural Organization

International Civil Aviation Organization

World Health Organization

World Bank

International Finance Corporation

International Development Association

International Monetary Fund

International Telecommunication Union

World Meteorological Organization

International Maritime Organization

World Intellectual Property Organization

International Fund for Agricultural Development

United Nations Industrial Development Organization

International Atomic Energy Agency

49. A list of the international instruments that make provision for the advisory jurisdiction of the Court is available on the Court's website.

Chapter IV
Functioning of the Court

A. Committees

50. The committees constituted by the Court to facilitate the performance of its administrative tasks met a number of times during the period under review; their composition is as follows:

(a) **Budgetary and Administrative Committee**. President of the Court (Chair), Vice-President of the Court, and Judges Ranjeva, Buergenthal, Owada and Tomka;

(b) **Library Committee**. Judge Buergenthal (Chair), and Judges Simma, Tomka, Keith and Bennouna.

51. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judge Owada (Chair), and Judges Simma, Abraham, Keith, Sepúlveda-Amor, Bennouna and Skotnikov.

B. Registry

52. The Court is the only principal organ of the United Nations to have its own administration (see Art. 98 of the Charter). The Registry is the permanent administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular, arts. 22-29 of the Rules). Since the Court is both a judicial body and an international institution, the role of the Registry is both to provide judicial support and to act as an international secretariat. The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar and its duties are worked out in instructions drawn up by the Registrar and approved by the Court (see Rules, art. 28, paras. 2 and 3). The Instructions for the Registry were drawn up in October 1946. An organizational chart of the Registry is annexed to the present Report.

53. Registry officials are appointed by the Court on proposals by the Registrar or, for General Service staff, by the Registrar with the approval of the President. Short-term staff are appointed by the Registrar. Working conditions are laid down in the Staff Regulations adopted by the Court (see art. 28 of the Rules). Registry officials enjoy, generally, the same privileges and immunities as members of diplomatic missions in The Hague of comparable rank. They enjoy a status, remuneration and pension rights corresponding to those of Secretariat officials of the equivalent category or grade.

54. Over the past 15 years, the Registry's workload, notwithstanding the adoption of new technologies, has grown considerably following the substantial increase in the number of cases brought before the Court.

55. Taking into account the creation of four Professional posts and of one temporary General Service post in the 2008-2009 biennium, the Registry has at present 104 posts: 51 in the Professional category and above (of which 39 are established posts and 12 are temporary) and 53 in the General Service category (of which 50 are established and 3 are temporary).

56. In accordance with the views expressed by the General Assembly, a performance appraisal system was established for Registry staff, effective 1 January 2004.

1. Registrar and Deputy Registrar

57. The Registrar is the regular channel of communications to and from the Court and in particular effects all communications, notifications and transmissions of documents required by the Statute or by the Rules. The Registrar: (a) keeps the General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; (b) is present in person, or represented by the Deputy Registrar, at meetings of the Court and of Chambers, and is responsible for the preparation of minutes of such meetings; (c) makes arrangements for such provision or verification of translations and interpretations into the official languages of the Court (French and English), as the Court may require; (d) signs all judgments, advisory opinions and orders of the Court as well as the minutes; (e) is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; (f) assists in maintaining the Court's external relations, in particular with other organs of the United Nations and with other international organizations and States, and is responsible for information concerning the Court's activities and for the Court's publications; and (g) has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg International Military Tribunal).

58. The Deputy Registrar assists the Registrar and acts as Registrar in the latter's absence; since 1998 the Deputy Registrar has been entrusted with wider administrative responsibilities, including direct supervision of the Archives, the Information Technology Division and the General Assistance Division.

59. The Registrar and the Deputy Registrar, when acting for the Registrar, are, pursuant to the exchange of correspondence mentioned in paragraph 41 above, accorded the same privileges and immunities as heads of diplomatic missions in The Hague.

2. Substantive divisions and units of the Registry

Department of Legal Matters

60. The Department of Legal Matters, composed of eight posts in the Professional category and one in the General Service category, is responsible for all legal matters within the Registry. In particular, its task is to assist the Court in the exercise of its judicial functions. It prepares the minutes of meetings of the Court and acts as secretariat to the drafting committees which prepare the Court's draft decisions, and also as secretariat to the Rules Committee. It carries out research in international law, examining judicial and procedural precedents, and prepares studies and notes for the Court and the Registrar as required. It also prepares for signature by the Registrar all correspondence in pending cases and, more generally, diplomatic correspondence relating to the application of the Statute or the Rules of Court. It is also responsible for monitoring the headquarters agreements with the host country.

Finally, the Department may be consulted on all legal questions relating to the terms of employment of Registry staff.

61. The Department can draw, when required, on the temporary assistance of law clerks who are assigned directly to work for members of the Court (see paras. 76-77 below).

Department of Linguistic Matters

62. The Department of Linguistic Matters, currently composed of 17 posts in the Professional category and one in the General Service category, is responsible for the translation of documents to and from the Court's two official languages and provides support to judges. Documents translated include case pleadings and other communications from States parties, verbatim records of hearings, the judgments, advisory opinions and orders of the Court, together with their drafts and working documents, judges' notes, minutes of the Court and committee meetings, internal reports, notes, studies, memorandums and directives, speeches by the President and judges to outside bodies, reports and communications to the Secretariat etc. The Department also provides interpretation at private and public meetings of the Court and, as required, at meetings held by the President and members of the Court with agents of the parties and other official visitors.

63. As a result of the growth of the Department, recourse to outside translators has been substantially reduced. However, external translation assistance is still necessary on occasion. The Department nevertheless does its best to make use of remote translation and to share resources with other linguistic departments within the United Nations system. For Court hearings and deliberations, external interpreters are used.

Information Department

64. The Information Department, composed of three posts in the Professional category and one in the General Service category, plays an important part in the Court's external relations. Its duties consist of replying to requests for information on the Court, preparing all documents containing general information on the Court (in particular the annual report of the Court to the General Assembly, the *Yearbook*, and handbooks for the general public), and encouraging and assisting the media to report on the work of the Court (in particular by preparing press releases and developing new communication aids, especially audio-visual ones). The Department gives presentations on the Court (to diplomats, lawyers, students and others) and is responsible for keeping the Court's website up to date. Its duties extend to internal communication as well.

65. The Information Department is also responsible for organizing the public sittings of the Court and all other official events, in particular a large number of visits, including those by distinguished guests. Thus, it also serves as a protocol office.

3. Technical divisions

Administrative and Personnel Division

66. The Administrative and Personnel Division, currently composed of one post in the Professional category and one in the General Service category, is responsible for

various duties related to staff management and administration, including planning and implementation of recruitment, appointment, promotion, training and separation of staff. In administering staff, it ensures observance of the Staff Regulations of the Registry and of those Staff Regulations and Rules of the United Nations that the Court determines to be applicable. As part of the recruitment process, the Division prepares vacancy announcements, reviews applications, arranges interviews for the selection of candidates and prepares job offers for the successful candidates, and handles the intake of new staff members. The Division also administers and monitors staff entitlements and benefits, handles the relevant personnel actions and liaises with the Office of Human Resources Management and the United Nations Joint Staff Pension Fund.

Finance Division

67. The Finance Division, composed of two posts in the Professional category and three in the General Service category, is responsible for financial matters. Its financial duties include, inter alia, preparation of the budget, financial accounting and reporting, procurement and inventory control, vendor payments, payroll and payroll-related operations (allowances/overtime) and travel.

Publications Division

68. The Publications Division, composed of three posts in the Professional category, is responsible for the preparation of manuscripts, proofreading and correction of proofs, study of estimates and choice of printing firms in relation to the following official publications of the Court: (a) reports of judgments, advisory opinions and orders; (b) pleadings, oral arguments and documents; (c) acts and documents concerning the organization of the Court; (d) bibliographies; and (e) yearbooks. It is also responsible for various other publications as instructed by the Court or the Registrar. Moreover, as the printing of the Court's publications is outsourced, the Division is also responsible for the preparation, conclusion and implementation of contracts with printers, including control of all invoices. (For further information on the Court's publications, see chap. VIII below.)

Documents Division and Library of the Court

69. The Documents Division, composed of two posts in the Professional category and four in the General Service category, has as its main task the acquisition, conservation and classification of leading works on international law, as well as a significant number of periodicals and other relevant documents. The Division operates in close collaboration with the Peace Palace Library of the Carnegie Foundation. It prepares bibliographies for members of the Court as required and compiles an annual bibliography of all publications concerning the Court. It also assists the translators with their reference needs. The Division uses recently acquired software to manage the collection and conduct its operations.

70. The Library of the Court is also responsible for the archives of the Nuremberg International Military Tribunal (including paper documents, gramophone records, films and some objects). A conservation and digitization plan for these archives is in the course of being completed.

Information Technology Division

71. The Information Technology Division, composed of two posts in the Professional category and three in the General Service category, is responsible for the efficient functioning and continued development of information technology at the Court. It is charged with the administration and functioning of the Court's local area networks and all other computer and technical equipment. It is also responsible for the implementation of new software and hardware projects, and assists and trains computer users in all aspects of information technology. Finally, the Division is responsible for the technical development and management of the Court's website.

Archives, Indexing and Distribution Division

72. The Archives, Indexing and Distribution Division, composed of one post in the Professional category and five in the General Service category, is responsible for indexing and classifying all correspondence and documents received or sent by the Court and for the subsequent retrieval of any such item on request. The duties of this Division include, in particular, maintaining an up-to-date index of incoming and outgoing correspondence, as well as of all documents, both official and otherwise, held on file. It is also responsible for checking, distributing and filing all internal documents, some of which are strictly confidential. A new computerized system for managing both internal and external documents will soon become operational within the Division.

73. The Archives, Indexing and Distribution Division also handles the dispatch of the Court's official publications to Members of the United Nations, as well as to numerous institutions and individuals.

Text-processing and Reproduction Division

74. The Text-processing and Reproduction Division, composed of one post in the Professional category and nine in the General Service category, carries out all the typing work of the Registry and, as necessary, the reproduction of typed texts.

75. The Division is responsible in particular for the typing and reproduction of the following documents in addition to correspondence proper: translations of written pleadings and annexes; verbatim records of hearings and their translations; translations of judges' notes and judges' amendments to draft judgments; and the translations of judges' opinions. It is also responsible for the typing and reproduction of the Court's judgments, advisory opinions and orders. In addition, it is responsible for checking documents and references, reviewing and page layout.

Law clerks

76. Officially, the law clerks, eight associate legal officers in all, are members of the Registry staff. After consulting with the Registrar, the Court has put in place an arrangement which will be evaluated in 2009, whereby seven of them will be directly assigned to work for members of the Court (other than the President who already has a personal assistant) and judges ad hoc individually, while the eighth will be assigned to work in the Registry under its responsibility on legal questions of interest to the judges as a whole.

77. The law clerks carry out research for the members of the Court and the judges ad hoc, and work under their responsibility, but may be called upon as required to

provide temporary support to the Department of Legal Matters, especially in specific case-related matters. Generally, the law clerks are supervised by a coordination and training committee made up of certain members of the Court and senior Registry staff.

Judges' secretaries

78. The work done by the 15 judges' secretaries is manifold and varied. As a general rule, the secretaries type notes, amendments and opinions, as well as all correspondence of judges and judges ad hoc. They assist the judges in the management of their work diary and in the preparation of relevant papers for meetings, as well as in dealing with visitors and enquiries.

General Assistance Division

79. The General Assistance Division, composed of nine posts in the General Service category, provides general assistance to members of the Court and Registry staff in regard to messenger, transport, reception and telephone services. It is also responsible for security.

C. Seat

80. The seat of the Court is established at The Hague; this, however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, art. 55).

81. The Court occupies premises in the Peace Palace at The Hague. An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises and provides, in exchange, for the payment to the Carnegie Foundation of an annual contribution. That contribution was increased pursuant to supplementary agreements approved by the General Assembly in 1951 and 1958, as well as the amendment to the last of those agreements, approved by the General Assembly in 1997, allowing for the contribution to be adjusted annually in line with inflation between 1997 and 2005. On 22 December 2007, the General Assembly approved a further amendment to the supplementary agreement of 1958, which provides for the payment to the Carnegie Foundation of the sum of €1,152,218 per annum, an increase of 13 per cent over the 2005 annual contribution, for the five-year period beginning 1 July 2006.

D. Peace Palace Museum

82. On 17 May 1999, the Secretary-General of the United Nations inaugurated the museum created by the International Court of Justice and situated in the south wing of the Peace Palace. The museum, which is run by the Carnegie Foundation, presents an overview of the theme "Peace through justice".

Chapter V
Judicial work of the Court

A. General overview

83. During the period under review, 15 contentious cases were pending; 12 remain so as at 31 July 2008.

84. During the period, 3 new cases were submitted to the Court: *Maritime Dispute* (*Peru* v. *Chile*); *Aerial Herbicide Spraying* (*Ecuador* v. *Colombia*); and *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) (*Mexico* v. *United States of America*).

85. The Court held public hearings in the following cases: *Sovereignty over Pedra Branca/Pulau Batu Puteh* (*Malaysia/Singapore*); *Certain Questions of Mutual Assistance in Criminal Matters* (*Djibouti* v. *France*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia* v. *Serbia*); and *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) (*Mexico* v. *United States of America*) (provisional measures).

86. The Court rendered judgment on the merits in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea* (*Nicaragua* v. *Honduras*); on the preliminary objections to jurisdiction raised by the respondent in the case concerning *Territorial and Maritime Dispute* (*Nicaragua* v. *Colombia*); on the merits in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh* (*Malaysia/Singapore*); and on the merits in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters* (*Djibouti* v. *France*).

87. In the case concerning *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico *v.* United States of America) (*Mexico* v. *United States of America*), the Court made an order with respect to the request for provisional measures submitted by Mexico.

88. The Court (or the President of the Court) also made orders authorizing the submission of certain written pleadings, and fixing or extending time limits for the filing of such pleadings or other documents, in the following cases: *Pulp Mills on the River Uruguay* (*Argentina* v. *Uruguay*); *Dispute regarding Navigational and Related Rights* (*Costa Rica* v. *Nicaragua*); *Territorial and Maritime Dispute* (*Nicaragua* v. *Colombia*); *Maritime Dispute* (*Peru* v. *Chile*); *Ahmadou Sadio Diallo* (*Republic of Guinea* v. *Democratic Republic of the Congo*); and *Aerial Herbicide Spraying* (*Ecuador* v. *Colombia*).

B. Pending cases during the period under review

1. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

89. On 2 July 1993, Hungary and Slovakia jointly notified to the Court a special agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of

the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system.

In article 2 of the special agreement:

> (1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable:
>
> (a) Whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> (b) Whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the "provisional solution" and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> (c) What are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its judgment on the questions in paragraph (1) of [the present] Article.

90. Each of the parties filed a memorial, a counter-memorial and a reply within the time limits fixed by the Court or its President.

91. Public hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčíkovo-Nagymaros Project by virtue of article 66 of the Rules of Court.

92. In its judgment of 25 September 1997, the Court found that both Hungary and Slovakia had breached their legal obligations. It called upon both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

93. On 3 September 1998, Slovakia filed in the Registry of the Court a request for an additional judgment in the case. Such an additional judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the judgment delivered by the Court in that case on 25 September 1997.

94. Hungary filed a written statement of its position on the request for an additional judgment made by Slovakia within the time limit of 7 December 1998 fixed by the President of the Court.

95. The parties have subsequently resumed negotiations and have informed the Court on a regular basis of the progress made.

2. *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*

96. On 28 December 1998, Guinea instituted proceedings against the Democratic Republic of the Congo by filing an "Application for purposes of diplomatic protection", in which it requested the Court to find that "the Democratic Republic of the Congo is guilty of serious breaches of international law committed upon the person of a Guinean national", Ahmadou Sadio Diallo.

97. According to Guinea, Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, had been "unjustly imprisoned by the authorities of that State" for two and a half months, "despoiled of his sizable investments, business, movable and immovable property and bank accounts, and then", on 2 February 1996, "expelled from the country", because he had sought the payment of debts owed to him by the Democratic Republic of the Congo and by oil companies established in that country under contracts with companies owned by him, namely Africom-Zaire and Africontainers-Zaire.

98. As basis for the Court's jurisdiction, Guinea invoked the declarations whereby the Democratic Republic of the Congo and Guinea accepted the compulsory jurisdiction of the Court on, respectively, 8 February 1989 and 11 November 1998.

99. Guinea filed its memorial within the time limit as extended by the Court by an order of 8 September 2000. On 3 October 2002, within the time limit for the submission of its counter-memorial as extended by the aforementioned order, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the application. The proceedings on the merits were accordingly suspended (art. 79 of the Rules of Court).

100. By an order of 7 November 2002, the Court fixed 7 July 2003 as the time limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time limit thus fixed. Public hearings on the preliminary objections were held from 27 November to 1 December 2006.

101. On 24 May 2007, the Court rendered a judgment declaring Guinea's application to be admissible insofar as it concerned protection of Mr. Diallo's rights as an individual and of his direct rights as *associé* in Africom-Zaire and Africontainers-Zaire, but inadmissible insofar as it concerned protection of Mr. Diallo in respect of alleged violations of the rights of Africom-Zaire and Africontainers-Zaire.

102. By an order of 27 June 2007, the Court fixed 27 March 2008 as the time limit for the filing of a counter-memorial by the Democratic Republic of the Congo. The counter-memorial was filed within the time limit thus fixed. By an order of 5 May 2008, the Court authorized the submission of a reply by Guinea and a rejoinder by the Democratic Republic of the Congo. It fixed 19 November 2008 and 5 June 2009 as the respective time limits for the filing of those written pleadings.

3. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*

103. On 23 June 1999, the Democratic Republic of the Congo filed an application instituting proceedings against Uganda for "acts of armed aggression perpetrated in

flagrant violation of the Charter of the United Nations and of the Charter of the Organization of African Unity".

104. In its application, the Democratic Republic of the Congo contended that "such armed aggression ... ha[d] involved, inter alia, violation of the sovereignty and territorial integrity of the [Democratic Republic of the Congo], violations of international humanitarian law and massive human rights violations". It sought "to secure the cessation of the acts of aggression directed against it, which constitute[d] a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought "compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it]".

105. Consequently, the Democratic Republic of the Congo requested the Court to adjudge and declare Uganda guilty of an act of aggression contrary to Article 2, paragraph 4, of the Charter of the United Nations and that it was committing repeated violations of the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory, and that the Democratic Republic of the Congo was entitled to compensation.

106. The Democratic Republic of the Congo invoked as basis for the Court's jurisdiction the declarations whereby both States accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

107. The memorial of the Democratic Republic of the Congo and the counter-memorial of Uganda were filed within the time limits fixed by an order of 21 October 1999.

108. On 19 June 2000, the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of ... Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with article 74, paragraph 4, of the Rules of Court, drew "the attention of both parties to the need to act in such a way as to enable any order the Court will make on the request for provisional measures to have its appropriate effects".

109. Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000 and, at a public sitting held on 1 July 2000, the Court rendered its order, indicating certain provisional measures.

110. In its counter-memorial, Uganda presented three counterclaims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an order of 29 November 2001, the Court found that the first two of the counterclaims submitted by Uganda against the Democratic Republic of the Congo were

"admissible as such and [formed] part of the current proceedings" but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a reply and Uganda a rejoinder, addressing the claims of both parties, and fixed 29 May 2002 as the time limit for the filing of the reply and 29 November 2002 for the filing of the rejoinder. Further, in order to ensure strict equality between the parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Ugandan counterclaims, in an additional pleading to be the subject of a subsequent order. The reply was filed within the time limit fixed. By an order of 7 November 2002, the Court extended the time limit for the filing by Uganda of its rejoinder and fixed 6 December 2002 as the new time limit. The rejoinder was filed within the time limit as thus extended.

111. By an order of 29 January 2003, the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counterclaims submitted by Uganda, and fixed 28 February 2003 as the time limit for its filing. That written pleading was filed within the time limit fixed.

112. Public hearings on the merits of the case were held from 11 to 29 April 2005.

113. In the judgment which it rendered on 19 December 2005, the Court found: that Uganda, by engaging in military activities against the Democratic Republic of the Congo on the latter's territory, by occupying Ituri and by actively extending support to irregular forces having operated on the territory of the Democratic Republic of the Congo, had violated the principle of non-use of force in international relations and the principle of non-intervention; that it had violated, in the course of hostilities between Ugandan and Rwandan military forces in Kisangani, its obligations under international human rights law and international humanitarian law; that it had violated, by the conduct of its armed forces towards the Congolese civilian population and in particular as an occupying Power in Ituri district, other obligations incumbent on it under international human rights law and international humanitarian law; and that it had violated its obligations under international law by acts of looting, plundering and exploitation of Congolese natural resources committed by members of its armed forces in the territory of the Democratic Republic of the Congo and by its failure to prevent such acts as an occupying Power in Ituri district. The Court also found that Uganda had not complied with the order indicating provisional measures rendered on 1 July 2000.

114. Regarding the second counterclaim submitted by Uganda, having rejected the first, the Court found that the Democratic Republic of the Congo had for its part violated obligations owed to the Republic of Uganda under the Vienna Convention on Diplomatic Relations of 1961, through maltreatment of or failure to protect the persons and property protected by the said Convention.

115. The Court therefore found that the parties were under obligation to one another to make reparation for the injury caused; it decided that, failing agreement between the parties, the question of reparation would be settled by the Court. It reserved for this purpose the subsequent procedure in the case. The case therefore remains pending.

4. ***Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia)***

116. On 2 July 1999, Croatia instituted proceedings before the Court against Serbia (then known as the Federal Republic of Yugoslavia) with respect to a dispute concerning alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide committed between 1991 and 1995.

117. In its application, Croatia contended, inter alia, that "[b]y directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of ... Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia", Serbia was liable for "ethnic cleansing" committed against Croatian citizens, "a form of genocide which resulted in large numbers of Croatian citizens being displaced, killed, tortured, or illegally detained, as well as extensive property destruction".

118. Accordingly, Croatia requested the Court to adjudge and declare that Serbia had "breached its legal obligations" to Croatia under the Genocide Convention and that it had "an obligation to pay to ... Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".

119. As basis for the Court's jurisdiction, Croatia invoked article IX of the Genocide Convention, to which, it claims, both States are parties.

120. By an order of 14 September 1999, the Court fixed 14 March 2000 and 14 September 2000 as the respective time limits for the filing of a memorial by Croatia and a counter-memorial by Serbia. These time limits were twice extended, by orders of 10 March 2000 and 27 June 2000. Croatia filed its memorial within the time limit as extended by the latter order.

121. On 11 September 2002, within the time limit for the filing of its counter-memorial as extended by the order of 27 June 2000, Serbia raised certain preliminary objections on jurisdiction and admissibility. It maintained in particular that the Court lacked jurisdiction over the dispute because the Federal Republic of Yugoslavia was not party to the Genocide Convention on 2 July 1999, the date the proceedings were instituted before the Court. Serbia contended that it did not become party to the Convention until 10 June 2001, after its admission to the United Nations on 1 November 2000 and, in addition, that it never became bound by article IX of the Genocide Convention because it entered a reservation to that article when it acceded to the Convention. Serbia further argued that Croatia's application was inadmissible insofar as the most serious incidents and omissions described therein occurred prior to 27 April 1992, the date on which the Federal Republic of Yugoslavia came into being, and could not therefore be attributed to it. Lastly, it asserted that certain specific claims made by Croatia were inadmissible or moot. Pursuant to article 79 of the Rules of Court, the proceedings on the merits were suspended. Croatia filed a written statement of its observations and submissions on Serbia's preliminary objections on 25 April 2003, within the time limit fixed by the Court.

122. Public hearings on the preliminary objections on jurisdiction and admissibility were held from 26 to 30 May 2008. At the conclusion of those hearings, the parties presented the following final submissions to the Court:

For Serbia:

Serbia requests the Court to *adjudge and declare*:

1. That the Court lacks jurisdiction;

or, in the alternative

2. (a) That claims based on acts or omissions which took place prior to 27 April 1992 are beyond the jurisdiction of this Court and inadmissible; and

(b) That claims referring to

– submission to trial of certain persons within the jurisdiction of Serbia,

– providing information regarding the whereabouts of missing Croatian citizens, and

– return of cultural property

are beyond the jurisdiction of this Court and inadmissible.

For Croatia:

The Republic of Croatia respectfully requests the International Court of Justice to:

1. *reject* the first, second and third preliminary objection of Serbia, with the exception of that part of the second preliminary objection which relates to the claim concerning the submission to trial of Mr. Slobodan Milošević; and accordingly to

2. *adjudge and declare* that it has jurisdiction to adjudicate upon the Application filed by the Republic of Croatia on 2 July 1999.

123. At the time of preparation of the present report, the Court had begun its deliberations for the judgment.

5. *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*

124. On 8 December 1999, Nicaragua filed an application instituting proceedings against Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

125. In its application, Nicaragua stated, inter alia, that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", whereas the position of Honduras was that "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed [in an arbitral award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, an award which was found to be valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco River". According to Nicaragua, the "position adopted by Honduras ... has brought about repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further stated that "[d]iplomatic negotiations have failed".

126. Nicaragua therefore requested the Court "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

127. As basis for the Court's jurisdiction, Nicaragua invoked article XXXI of the American Treaty on Pacific Settlement (officially known as the Pact of Bogotá), signed on 30 April 1948, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

128. The memorial of Nicaragua and the counter-memorial of Honduras were filed within the time limits fixed by an order of 21 March 2000.

129. Copies of the pleadings and documents annexed were requested by the Governments of Colombia, Jamaica and El Salvador. In accordance with article 53, paragraph 1, of its Rules, the Court ascertained the views of the Parties and, taking account of those views as expressed, acceded to the requests of the first two countries, but not to that of the third.

130. By an order of 13 June 2002, the Court authorized the submission of a reply by Nicaragua and a rejoinder by Honduras. These pleadings were filed within the prescribed time limits.

131. Public hearings were held from 5 to 23 March 2007. At the conclusion of the oral proceedings, the parties presented the following final submissions to the Court:

For Nicaragua:

May it please the Court to adjudge and declare that:

The bisector of the lines representing the coastal fronts of the two Parties as described in the pleadings, drawn from a fixed point approximately 3 miles from the river mouth in the position 15° 02' 00" N and 83° 05' 26" W, constitutes the single maritime boundary for the purposes of the delimitation of the disputed areas of the territorial sea, exclusive economic zone and continental shelf in the region of the Nicaraguan Rise.

The starting point of the delimitation is the thalweg of the main mouth of the river Coco such as it may be at any given moment as determined by the award of the King of Spain of 1906.

Without prejudice to the foregoing, the Court is required to decide the question of sovereignty over the islands and cays within the area in dispute.

For Honduras:

May it please the Court to adjudge and declare that:

1. The islands Bobel Cay, South Cay, Savanna Cay and Port Royal Cay, together with all other islands, cays, rocks, banks and reefs claimed by Nicaragua which lie north of the 15th parallel are under the sovereignty of the Republic of Honduras.

2. The starting point of the maritime boundary to be delimited by the Court shall be a point located at 14° 59.8' N latitude, 83° 05.8' W longitude. The boundary from the point determined by the Mixed Commission in 1962 at 14° 59.8' N latitude, 83° 08.9' W longitude to the starting point of the maritime boundary to be delimited by the Court shall be agreed between the Parties to this case on the basis of the Award of the King of Spain of 23 December 1906, which is binding upon the Parties, and taking into account the changing geographical characteristics of the mouth of the river Coco (also known as the river Segovia or Wanks).

3. East of the point at 14° 59.8' N latitude, 83° 05.8' W longitude, the single maritime boundary which divides the respective territorial seas, exclusive economic zones and continental shelves of Honduras and Nicaragua follows 14° 59.8' N latitude, as the existing maritime boundary, or an adjusted equidistance line, until the jurisdiction of a third State is reached.

132. On 8 October 2007, the Court rendered its judgment in the case. The operative paragraph of the judgment reads as follows:

For these reasons,

The Court,

(1) Unanimously,

Finds that the Republic of Honduras has sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay;

(2) By fifteen votes to two,

Decides that the starting point of the single maritime boundary that divides the territorial sea, continental shelf and exclusive economic zones of the Republic of Nicaragua and the Republic of Honduras shall be located at a point with the coordinates 15° 00' 52" N and 83° 05' 58" W;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Gaja;

Against: Judge Parra-Aranguren; Judge ad hoc Torres Bernárdez;

(3) By fourteen votes to three,

Decides that starting from the point with the coordinates 15° 00' 52" N and 83° 05' 58" W the line of the single maritime boundary shall follow the azimuth 70° 14' 41.25" until its intersection with the 12-nautical-mile arc of the territorial sea of Bobel Cay at point A (with coordinates 15° 05' 25" N and 82° 52' 54" W). From point A the boundary line shall follow the 12-nautical-mile arc of the territorial sea of Bobel Cay in a southerly direction until its intersection with the 12-nautical-mile arc of the territorial sea of Edinburgh Cay at point B (with coordinates 14° 57' 13" N and 82° 50' 03" W). From point B the boundary line shall continue along the median line which is formed by the points of equidistance between Bobel Cay, Port Royal Cay and South Cay (Honduras) and Edinburgh Cay (Nicaragua), through point C (with coordinates 14° 56' 45" N and 82° 33' 56" W) and D (with coordinates 14° 56' 35" N and 82° 33' 20" W), until it meets the point of intersection of the

12-nautical-mile arcs of the territorial seas of South Cay (Honduras) and Edinburgh Cay (Nicaragua) at point E (with coordinates 14° 53' 15" N and 82° 29' 24" W). From point E the boundary line shall follow the 12-nautical-mile arc of the territorial sea of South Cay in a northerly direction until it meets the line of the azimuth at point F (with coordinates 15° 16' 08" N and 82° 21' 56" W). From point F, it shall continue along the line having the azimuth of 70° 14' 41.25" until it reaches the area where the rights of third States may be affected;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Gaja;

Against: Judges Ranjeva, Parra-Aranguren; Judge ad hoc Torres Bernárdez;

(4) By sixteen votes to one,

Finds that the Parties must negotiate in good faith with a view to agreeing on the course of the delimitation line of that portion of the territorial sea located between the endpoint of the land boundary as established by the 1906 Arbitral Award and the starting point of the single maritime boundary determined by the Court to be located at the point with the coordinates 15° 00' 52" N and 83° 05' 58" W.

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judges ad hoc Torres Bernárdez, Gaja;

Against: Judge Parra-Aranguren.

133. Judges Ranjeva and Koroma appended separate opinions to the judgment of the Court; Judge Parra Aranguren appended a declaration to the judgment; Judge ad hoc Torres Bernárdez appended a dissenting opinion; Judge ad hoc Gaja appended a declaration.

6. *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*

134. On 6 December 2001, Nicaragua filed an application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

135. In its application, Nicaragua requested the Court to adjudge and declare:

First, that ... Nicaragua has sovereignty over the islands of Providencia, San Andrés and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);

Second, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by

general international law as applicable to such a delimitation of a single maritime boundary.

136. Nicaragua further indicated that it "reserve[d] the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the islands of San Andrés and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title". It also "reserve[d] the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua".

137. As basis for the Court's jurisdiction, Nicaragua invoked article XXXI of the Pact of Bogotá, to which both Nicaragua and Colombia are parties, as well as the declarations of the two States recognizing the compulsory jurisdiction of the Court.

138. By an order of 26 February 2002, the Court fixed 28 April 2003 and 28 June 2004 as the time limits for the filing of a memorial by Nicaragua and of a counter-memorial by Colombia. The memorial of Nicaragua was filed within the time limit thus fixed.

139. Copies of the pleadings and documents annexed were requested by the Governments of Honduras, Jamaica, Chile, Peru, Ecuador and Venezuela by virtue of article 53, paragraph 1, of the Rules of Court. Pursuant to that same provision, the Court, after ascertaining the views of the parties, acceded to those requests.

140. On 21 July 2003, within the time limit set by article 79, paragraph 1, of the Rules of Court, Colombia raised preliminary objections to the jurisdiction of the Court. It maintained that article XXXI of the Pact of Bogotá did not afford sufficient basis for the Court's jurisdiction over the dispute and stated its view that, in any event, the dispute had been settled and was ended. Colombia further contended that the Court lacked jurisdiction to entertain the application by virtue of the declarations recognizing the compulsory jurisdiction of the Court made by the two States, asserting, inter alia, that, on the date that Nicaragua filed its application, Colombia had withdrawn its declaration. In view of those preliminary objections, the proceedings on the merits were suspended (Rules, art. 79). Within the time limit fixed by the Court in its order of 24 September 2003, Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia.

141. Public hearings on the preliminary objections were held from 4 to 8 June 2007. At the conclusion of those hearings, the parties presented the following final submissions to the Court:

For Colombia:

> Pursuant to article 60 of the Rules of Court, having regard to Colombia's pleadings, written and oral, Colombia respectfully requests the Court to adjudge and declare that:
>
> (1) Under the Pact of Bogotá, and in particular in pursuance of articles VI and XXXIV, the Court declares itself to be without jurisdiction to hear the controversy submitted to it by Nicaragua under article XXXI, and declares that controversy ended;
>
> (2) Under Article 36, paragraph 2, of the Statute of the Court, the Court has no jurisdiction to entertain Nicaragua's Application; and that

(3) Nicaragua's Application is dismissed.

For Nicaragua:

In accordance with article 60 of the Rules of Court and having regard to the pleadings, written and oral, the Republic of Nicaragua respectfully requests the Court to adjudge and declare that:

1. The Preliminary Objections submitted by the Republic of Colombia, both in respect of the jurisdiction based upon the Pact of Bogotá, and in respect of the jurisdiction based upon Article 36, paragraph 2, of the Statute of the Court, are invalid.

2. In the alternative, the Court is requested to adjudge and declare, in accordance with the provisions of article 79, paragraph 7, of the Rules of Court that the Objections submitted by the Republic of Colombia do not have an exclusively preliminary character.

3. In addition, the Republic of Nicaragua requests the Court to reject the request of the Republic of Colombia to declare the controversy submitted to it by Nicaragua under article XXXI of the Pact of Bogotá "ended", in accordance with articles VI and XXXIV of the same instrument.

4. Any other matters not explicitly dealt with in the foregoing Written Statement and oral pleadings are expressly reserved for the merits phase of this proceeding.

142. On 13 December 2007, the Court rendered its judgment on the preliminary objections. The operative paragraph of the judgment reads as follows:

For these reasons,

The Court,

(1) As regards the first preliminary objection to jurisdiction raised by the Republic of Colombia on the basis of articles VI and XXXIV of the Pact of Bogotá:

(a) By thirteen votes to four,

Upholds the objection to its jurisdiction insofar as it concerns sovereignty over the islands of San Andrés, Providencia and Santa Catalina;

In favour: President Higgins; Judges Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Keith, Sepúlveda-Amor, Skotnikov; Judges ad hoc Fortier, Gaja;

Against: Vice-President Al-Khasawneh; Judges Ranjeva, Abraham, Bennouna;

(b) Unanimously,

Rejects the objection to its jurisdiction insofar as it concerns sovereignty over the other maritime features in dispute between the Parties;

(c) Unanimously,

Rejects the objection to its jurisdiction insofar as it concerns the maritime delimitation between the Parties;

(2) As regards the second preliminary objection to jurisdiction raised by the Republic of Colombia relating to the declarations made by the Parties recognizing the compulsory jurisdiction of the Court:

(a) By fourteen votes to three,

Upholds the objection to its jurisdiction insofar as it concerns sovereignty over the islands of San Andrés, Providencia and Santa Catalina;

In favour: President Higgins; Judges Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Skotnikov; Judges ad hoc Fortier, Gaja;

Against: Vice-President Al-Khasawneh; Judges Ranjeva, Bennouna;

(b) By sixteen votes to one,

Finds that it is not necessary to examine the objection to its jurisdiction insofar as it concerns sovereignty over the other maritime features in dispute between the Parties and the maritime delimitation between the Parties;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Parra Aranguren, Buergenthal, Owada, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judges ad hoc Fortier, Gaja;

Against: Judge Simma;

(3) As regards the jurisdiction of the Court,

(a) Unanimously,

Finds that it has jurisdiction, on the basis of article XXXI of the Pact of Bogotá, to adjudicate upon the dispute concerning sovereignty over the maritime features claimed by the Parties other than the islands of San Andrés, Providencia and Santa Catalina;

(b) Unanimously,

Finds that it has jurisdiction, on the basis of article XXXI of the Pact of Bogotá, to adjudicate upon the dispute concerning the maritime delimitation between the Parties.

143. Vice-President Al-Khasawneh appended a dissenting opinion to the judgment of the Court; Judge Ranjeva appended a separate opinion to the judgment of the Court; Judges Parra-Aranguren, Simma and Tomka appended declarations to the judgment of the Court; Judge Abraham appended a separate opinion to the judgment of the Court; Judge Keith appended a declaration to the judgment of the Court; Judge Bennouna appended a dissenting opinion to the judgment of the Court; Judge ad hoc Gaja appended a declaration to the judgment of the Court.

144. By an order of 11 February 2008, the President of the Court fixed 11 November 2008 as the time limit for the filing of the counter-memorial by Colombia.

7. ***Certain Criminal Proceedings in France (Republic of the Congo v. France)***

145. On 9 December 2002, the Congo filed an application instituting proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Denis Sassou Nguesso, the Congolese Minister of the Interior, Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The application further stated that, in connection with these proceedings, an investigating judge of the Meaux Tribunal de grande instance had issued a warrant for the President of the Republic of the Congo to be examined as witness.

146. The Congo contended that, by "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country", France had violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations ... exercise its authority on the territory of another State". The Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France had violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

147. In its application, the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which w[ould] certainly be given". In accordance with that provision, the application by the Congo was transmitted to the French Government and no further action was taken in the proceedings at that stage.

148. By a letter dated 8 April 2003 and received in the Registry on 11 April 2003, France stated that it "consent[ed] to the jurisdiction of the Court to entertain the application pursuant to article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that "article 2 of the Treaty of Cooperation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its application, d[id] not constitute basis of jurisdiction for the Court in the present case".

149. The application of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux Tribunal de grande instance".

150. Public hearings were held on the request for the indication of a provisional measure on 28 and 29 April 2003. In its order of 17 June 2003, the Court declared that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

151. The memorial of the Congo and the counter-memorial of France were filed within the time limits fixed by the order of 11 July 2003.

152. By an order of 17 June 2004, the Court, taking account of the agreement of the parties and of the particular circumstances of the case, authorized the submission of a reply by the Congo and a rejoinder by France, and fixed the time limits for the filing of those pleadings. Following four successive requests for extensions to the time limit for filing the reply, the President of the Court fixed the time limits for the filing of the reply by the Congo and the rejoinder by France as 11 July 2006 and 11 August 2008, respectively. The reply of the Congo was filed within the time limit thus extended.

8. *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*

153. On 24 July 2003 Malaysia and Singapore jointly notified the Court of a special agreement, which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003. In article 2 of that agreement, the parties requested the Court:

> to determine whether sovereignty over:
>
> (a) Pedra Branca/Pulau Batu Puteh;
>
> (b) Middle Rocks;
>
> (c) South Ledge,
>
> belongs to Malaysia or the Republic of Singapore.

In article 6, the parties agree to accept the judgment of the Court ... as final and binding upon them. The parties further set out their views on the procedure to be followed.

154. By an order of 1 September 2003, the President of the Court, taking into account the provisions of article 4 of the special agreement, fixed the time limits for the filing by each of the Parties of a memorial and a counter-memorial. Those pleadings were duly filed within the time limits fixed.

155. By an order of 1 February 2005, the Court, taking into account the provisions of the special agreement, fixed 25 November 2005 as the time limit for the filing of a reply by each of the parties. The replies were duly filed within the time limit fixed.

156. By a joint letter drafted 23 January 2006, the parties informed the Court that they had agreed that there was no need for an exchange of rejoinders in the case. The Court itself subsequently decided that no further pleadings were necessary and that the written proceedings were accordingly then closed.

157. Public hearings were held from 6 to 23 November 2007. At the conclusion of those hearings, the parties presented the following final submissions to the Court:

For Singapore:

> The Government of the Republic of Singapore requests the Court to adjudge and declare that:
>
> (a) The Republic of Singapore has sovereignty over Pedra Branca/Pulau Batu Puteh;
>
> (b) The Republic of Singapore has sovereignty over Middle Rocks; and

(c) The Republic of Singapore has sovereignty over South Ledge.

For Malaysia:

In accordance with article 60, paragraph 2, of the Rules of Court, [Malaysia] respectfully request[s] the Court to adjudge and declare that sovereignty over:

(a) Pedra Branca/Pulau Batu Puteh;

(b) Middle Rocks; and

(c) South Ledge

belongs to Malaysia.

158. On 23 May 2008, the Court rendered its judgment, of which the operative paragraph reads as follows:

For these reasons,

The Court,

(1) By twelve votes to four,

Finds that sovereignty over Pedra Branca/Pulau Batu Puteh belongs to the Republic of Singapore;

In favour: Vice-President, Acting President, Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Buergenthal, Owada, Tomka, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Sreenivasa Rao;

Against: Judges Parra-Aranguren, Simma, Abraham; Judge ad hoc Dugard;

(2) By fifteen votes to one,

Finds that sovereignty over Middle Rocks belongs to Malaysia;

In favour: Vice-President, Acting President, Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda Amor, Bennouna, Skotnikov; Judge ad hoc Dugard;

Against: Judge ad hoc Sreenivasa Rao;

(3) By fifteen votes to one,

Finds that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located.

In favour: Vice-President, Acting President, Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judges ad hoc Dugard, Sreenivasa Rao;

Against: Judge Parra-Aranguren.

159. Judge Ranjeva appended a declaration to the judgment of the Court; Judge Parra-Aranguren appended a separate opinion to the judgment of the Court; Judges Simma and Abraham appended a joint dissenting opinion to the judgment of the

Court; Judge Bennouna appended a declaration to the judgment of the Court; Judge ad hoc Dugard appended a dissenting opinion to the judgment of the Court; Judge ad hoc Sreenivasa Rao appended a separate opinion to the judgment of the Court.

9. ***Maritime Delimitation in the Black Sea (Romania* v. *Ukraine)***

160. On 16 September 2004, Romania filed an application instituting proceedings against Ukraine in respect of a dispute concerning "the establishment of a single maritime boundary between the two States in the Black Sea, thereby delimiting the continental shelf and the exclusive economic zones appertaining to them".

161. In its application, Romania explained that, "following a complex process of negotiations", Ukraine and Romania had signed on 2 June 1997 the Treaty on Relations of Cooperation and Good Neighbourliness, and had concluded an additional agreement by an exchange of letters between their respective Ministers for Foreign Affairs. Both instruments had entered into force on 22 October 1997. By those agreements, "the two States assumed the obligation to conclude a Treaty on the State Border Régime between them, as well as an Agreement for the delimitation of the continental shelf and the exclusive economic zones ... in the Black Sea". At the same time, "the Additional Agreement provided for the principles to be applied in the delimitation of the above-mentioned areas, and set out the commitment of the two countries that the dispute could be submitted to the International Court of Justice, subject to the fulfilment of certain conditions". Between 1998 and 2004, 24 rounds of negotiation were held. However, according to Romania, "no result was obtained and an agreed delimitation of the maritime areas in the Black Sea was not accomplished". Romania had brought the matter before the Court "in order to avoid the indefinite prolongation of discussions that, in [its] opinion, obviously cannot lead to any outcome".

162. Romania requested the Court "to draw in accordance with international law, and specifically the criteria laid down in article 4 of the Additional Agreement, a single maritime boundary between the continental shelf and the exclusive economic zone of the two States in the Black Sea".

163. As basis for the Court's jurisdiction Romania invoked article 4 (h) of the Additional Agreement, which provides:

> If these negotiations [referred to above] shall not determine the conclusion of the above-mentioned agreement [on the delimitation of the continental shelf and the exclusive economic zones in the Black Sea] in a reasonable period of time, but not later than two years since their initiation, the Government of Romania and the Government of Ukraine have agreed that the problem of delimitation of the continental shelf and the exclusive economic zones shall be solved by the International Court of Justice, at the request of any of the parties, provided that the Treaty on the regime of the State border between Romania and Ukraine has entered into force. However, should the International Court of Justice consider that the delay of the entering into force of the Treaty on the regime of the State border is the result of the other Party's fault, it may examine the request concerning the delimitation of the continental shelf and the exclusive economic zones before the entering into force of this Treaty.

164. Romania contended that the two conditions set out in article 4 (h) of the Additional Agreement had been fulfilled, since the negotiations had by far exceeded two years and the Treaty on the State Border Régime had entered into force on 27 May 2004.

165. The memorial of Romania and the counter-memorial of Ukraine were filed within the time limits fixed by the order of 19 November 2004. By an order of 30 June 2006, the Court authorized the filing of a reply by Romania and a rejoinder by Ukraine and fixed 22 December 2006 and 15 June 2007 as the respective time limits for the filing of those pleadings. Romania filed its reply within the time limit set. By an order of 8 June 2007, the Court extended to 6 July 2007 the time limit for the filing of the rejoinder by Ukraine. The rejoinder was duly filed within the time limit thus extended. The case is therefore ready for hearing.

10. ***Dispute regarding Navigational and Related Rights (Costa Rica* v. *Nicaragua)***

166. On 29 September 2005, Costa Rica filed an application instituting proceedings against Nicaragua in a dispute concerning the navigational and related rights of Costa Rica on the San Juan River.

167. In its application, Costa Rica stated that it sought "the cessation of the [Nicaraguan] conduct which prevents the free and full exercise and enjoyment of the rights that Costa Rica possesses on the San Juan River, and which also prevents Costa Rica from fulfilling its responsibilities" under certain agreements between itself and Nicaragua. Costa Rica requested the Court to determine the reparation which must be made by Nicaragua. Costa Rica contended that "Nicaragua has — in particular since the late 1990s — imposed a number of restrictions on the navigation of Costa Rican boats and their passengers on the San Juan River", in violation of "article VI of the Treaty of Limits [signed in 1858 between Costa Rica and Nicaragua, which] granted to Nicaragua sovereignty over the waters of the San Juan River, recognizing at the same time important rights to Costa Rica". Costa Rica maintained that those rights were confirmed and interpreted by an arbitral award issued by the President of the United States of America, Grover Cleveland, on 28 March 1888, and by a judgment of the Central American Court of Justice of 1916, as well as by the "Agreement Supplementary to Article IV of the [1949] Pact of Amity, [signed in] Washington, [on] 9 January 1956". Costa Rica further contended that "these restrictions are of a continuing character".

168. As basis of jurisdiction, Costa Rica invoked the declarations of acceptance of the Court's jurisdiction made by the parties under Article 36, paragraph 2, of the Statute, as well as the Tovar-Caldera Agreement signed between the parties on 26 September 2002. Costa Rica also relies on Article 36, paragraph 1, of the Statute of the Court by virtue of the operation of article XXXI of the Pact of Bogotá of 30 April 1948.

169. Costa Rica filed its memorial and Nicaragua its counter-memorial within the time limits fixed by an order of 29 November 2005.

170. Copies of the pleadings and documents annexed were requested by the Government of Colombia. Pursuant to article 53, paragraph 1, of the Rules of Court, after ascertaining the views of the parties and taking account of those views as expressed, the Court decided not to accede to that request for the time being.

171. By an order of 9 October 2007, the Court authorized the submission of a reply by Costa Rica and a rejoinder by Nicaragua. Those pleadings were filed within the time limits prescribed. The case is therefore ready for hearing.

11. *Pulp Mills on the River Uruguay (Argentina* v. *Uruguay)*

172. On 4 May 2006, Argentina filed an application instituting proceedings against Uruguay concerning alleged breaches by Uruguay of obligations incumbent upon it under the Statute of the River Uruguay, a treaty signed between the two States on 26 February 1975 (hereinafter referred to as the 1975 Statute) for the purpose of establishing the joint machinery necessary for the optimum and rational utilization of that part of the river which constitutes their joint boundary.

173. In its application, Argentina charged the Government of Uruguay with having unilaterally authorized the construction of two pulp mills on the River Uruguay without complying with the obligatory prior notification and consultation procedures under the 1975 Statute. Argentina claimed that those mills posed a threat to the river and its environment, and were likely to impair the quality of the river's waters and to cause significant transboundary damage to Argentina.

174. As basis for the Court's jurisdiction, Argentina cited the first paragraph of article 60 of the 1975 Statute, which provides that any dispute concerning the interpretation or application of that Statute which cannot be settled by direct negotiations may be submitted by either party to the Court.

175. Argentina's application was accompanied by a request for the indication of provisional measures, whereby Argentina asked that Uruguay be ordered to suspend the authorizations for construction of the mills and all building works pending a final decision by the Court, to cooperate with Argentina with a view to protecting and conserving the aquatic environment of the River Uruguay, and to refrain from taking any further unilateral action with respect to construction of the two mills incompatible with the 1975 Statute and from any other action which might aggravate the dispute or render its settlement more difficult.

176. Public hearings on the request for the indication of provisional measures were held on 8 and 9 June 2006. By an order of 13 July 2006, the Court found that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power under Article 41 of its Statute to indicate provisional measures.

177. On 29 November 2006, Uruguay in turn submitted a request for the indication of provisional measures on the grounds that, from 20 November 2006, organized groups of Argentine citizens had blockaded a "vital international bridge", that this action was causing it considerable economic prejudice and that Argentina had taken no action to end the blockade. Concluding its request, Uruguay requested the Court to order Argentina to take "all reasonable and appropriate steps ... to prevent or end the interruption of transit between Uruguay and Argentina, including the blockading of bridges or roads between the two States", to abstain "from any measure that might aggravate, extend or make more difficult the settlement of this dispute" and to abstain "from any other measure which might prejudice the rights of Uruguay in dispute before the Court". Public hearings were held on 18 and 19 December 2006 on the request for the indication of provisional measures. By an order of 23 January 2007, the Court found that the circumstances, as they then presented themselves to

it, were not such as to require the exercise of its power under Article 41 of its Statute.

178. Argentina filed its memorial and Uruguay its counter-memorial within the time limits fixed by the order of 13 July 2006.

179. By an order of 14 September 2007, the Court authorized the submission of a reply by Argentina and a rejoinder by Uruguay. Those pleadings were filed within the time limits prescribed. The case is therefore ready for hearing.

12. ***Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France)***

180. On 9 January 2006, Djibouti filed an application instituting proceedings against France concerning "the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the *Case against X for the Murder of Bernard Borrel*". Djibouti maintained that the refusal constituted a violation of the international obligations of France under the Treaty of Friendship and Cooperation signed by the two States on 27 June 1977 and the Convention on Mutual Assistance in Criminal Matters between France and Djibouti, dated 27 September 1986. Djibouti further asserted that, in summoning certain internationally protected nationals of Djibouti, including the Head of State, as *témoins assistés* in connection with a criminal complaint for subornation of perjury against X in the *Borrel* case, France had violated its obligation to prevent attacks on the person, freedom or dignity of persons enjoying such protection.

181. In its application, Djibouti stated that it intended to found the jurisdiction of the Court on article 38, paragraph 5, of the Rules of Court, adding that it was "confident that the French Republic w[ould] agree to submit to the jurisdiction of the Court to settle the present dispute". In accordance with that article, the application by Djibouti was transmitted to the French Government.

182. In a letter dated 25 July 2006, France stated that it "consent[ed] to the Court's jurisdiction to entertain the Application pursuant to, and solely on the basis of, said article 38, paragraph 5 [of the Rules of Court]", while specifying that its consent was "valid only for the purposes of the case, within the meaning of article 38, paragraph 5, that is, in respect of the dispute forming the subject of the Application and strictly within the limits of the claims formulated therein" by Djibouti. That consent made it possible to enter the case in the Court's List and to open the proceedings.

183. The memorial of Djibouti and the counter-memorial of France were filed within the time limits prescribed by an order of 15 November 2006.

184. Public hearings were held from 21 to 29 January 2008. At the conclusion of those hearings, the parties presented the following final submissions to the Court:

For Djibouti:

The Republic of Djibouti requests the Court to adjudge and declare:

1. that the French Republic has violated its obligations under the 1986 Convention:

(i) by not acting upon its undertaking of 27 January 2005 to execute the letter rogatory addressed to it by the Republic of Djibouti dated 3 November 2004;

(ii) in the alternative, by not performing its obligation pursuant to article 1 of the aforementioned Convention following its wrongful refusal given in the letter of 6 June 2005;

(iii) in the further alternative, by not performing its obligation pursuant to article 1 of the aforementioned Convention following its wrongful refusal given in the letter of 31 May 2005.

2. that the French Republic shall immediately after the delivery of the judgment by the Court:

(i) transmit the 'Borrel file' in its entirety to the Republic of Djibouti;

(ii) in the alternative, transmit the 'Borrel file' to the Republic of Djibouti within the terms and conditions determined by the Court.

3. that the French Republic has violated its obligation pursuant to the principles of customary and general international law not to attack the immunity, honour and dignity of the President of the Republic of Djibouti:

(i) by issuing a witness summons to the President of the Republic of Djibouti on 17 May 2005;

(ii) by repeating such attack or by attempting to repeat such attack on 14 February 2007;

(iii) by making both summonses public by immediately circulating the information to the French media;

(iv) by not responding appropriately to the two letters of protest from the Ambassador of the Republic of Djibouti in Paris dated 18 May 2005 and 14 February 2007, respectively.

4. that the French Republic has violated its obligation pursuant to the principles of customary and general international law to prevent attacks on the immunity, honour and dignity of the President of the Republic of Djibouti.

5. that the French Republic shall immediately after the delivery of the Judgment by the Court withdraw the witness summons dated 17 May 2005 and declare it null and void.

6. that the French Republic has violated its obligation pursuant to the principles of customary and general international law not to attack the person, freedom and honour of the Procureur général of the Republic of Djibouti and the Head of National Security of Djibouti.

7. that the French Republic has violated its obligation pursuant to the principles of customary and general international law to prevent attacks on the person, freedom and honour of the Procureur général of the Republic of Djibouti and the Head of National Security of the Republic of Djibouti.

8. that the French Republic shall immediately after the delivery of the judgment by the Court withdraw the summonses to attend as *témoins assistés* and the arrest warrants issued against the Procureur général of the Republic of

Djibouti and the Head of National Security of the Republic of Djibouti and declare them null and void.

9. that the French Republic by acting contrary to or by failing to act in accordance with articles 1, 3, 4, 6 and 7 of the Treaty of Friendship and Cooperation of 1977 individually or collectively has violated the spirit and purpose of that Treaty, as well as the obligations deriving therefrom.

10. that the French Republic shall cease its wrongful conduct and abide strictly by the obligations incumbent on it in the future.

11. that the French Republic shall provide the Republic of Djibouti with specific assurances and guarantees of non-repetition of the wrongful acts complained of.

For France:

The French Republic requests the Court:

1. (a) to declare that it lacks jurisdiction to rule on those claims presented by the Republic of Djibouti upon completion of its oral argument which go beyond the subject of the dispute as set out in its Application, or to declare them inadmissible;

(b) in the alternative, to declare those claims to be unfounded;

2. to reject all the other claims made by the Republic of Djibouti.

185. On 4 June 2008, the Court rendered its judgment, of which the operative paragraph reads as follows:

For these reasons,

The Court,

(1) As regards the jurisdiction of the Court,

(a) Unanimously,

Finds that it has jurisdiction to adjudicate upon the dispute concerning the execution of the letter rogatory addressed by the Republic of Djibouti to the French Republic on 3 November 2004;

(b) By fifteen votes to one,

Finds that it has jurisdiction to adjudicate upon the dispute concerning the summons as witness addressed to the President of the Republic of Djibouti on 17 May 2005, and the summonses as *témoins assistés* (legally assisted witnesses) addressed to two senior Djiboutian officials on 3 and 4 November 2004 and 17 June 2005;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Buergenthal, Owada, Simma, Tomka, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judges ad hoc Guillaume, Yusuf;

Against: Judge Parra-Aranguren;

(c) By twelve votes to four,

Finds that it has jurisdiction to adjudicate upon the dispute concerning the summons as witness addressed to the President of the Republic of Djibouti on 14 February 2007;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Shi, Koroma, Buergenthal, Owada, Simma, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Yusuf;

Against: Judges Ranjeva, Parra-Aranguren, Tomka; Judge ad hoc Guillaume;

(d) By thirteen votes to three,

Finds that it has no jurisdiction to adjudicate upon the dispute concerning the arrest warrants issued against two senior Djiboutian officials on 27 September 2006;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Simma, Tomka, Keith, Sepúlveda-Amor, Bennouna; Judge ad hoc Guillaume;

Against: Judges Owada, Skotnikov; Judge ad hoc Yusuf;

(2) As regards the final submissions of the Republic of Djibouti on the merits,

(a) Unanimously,

Finds that the French Republic, by not giving the Republic of Djibouti the reasons for its refusal to execute the letter rogatory presented by the latter on 3 November 2004, failed to comply with its international obligation under article 17 of the Convention on Mutual Assistance in Criminal Matters between the two Parties, signed in Djibouti on 27 September 1986, and that its finding of this violation constitutes appropriate satisfaction;

(b) By fifteen votes to one,

Rejects all other final submissions presented by the Republic of Djibouti.

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judge ad hoc Guillaume;

Against: Judge ad hoc Yusuf.

186. Judges Ranjeva, Koroma and Parra-Aranguren appended separate opinions to the judgment of the Court; Judge Owada appended a declaration to the judgment of the Court; Judge Tomka appended a separate opinion to the judgment of the Court; Judges Keith and Skotnikov appended declarations to the judgment of the Court. Judge ad hoc Guillaume appended a declaration to the judgment of the Court; Judge ad hoc Yusuf appended a separate opinion to the judgment of the Court.

13. *Maritime Dispute (Peru v. Chile)*

187. On 16 January 2008, Peru filed an application instituting proceedings against Chile before the Court concerning a dispute in relation to "the delimitation of the boundary between the maritime zones of the two States in the Pacific Ocean, beginning at a point on the coast called Concordia, ... the terminal point of the land

boundary established pursuant to the Treaty ... of 3 June 1929",[2] and also to the recognition in favour of Peru of a "maritime zone lying within 200 nautical miles of the coast of Peru, and thus appertaining to Peru, but which Chile considers to be part of the high seas".

188. In its application, Peru claimed that "the maritime zones between Chile and Peru have never been delimited by agreement or otherwise" and that, accordingly, "the delimitation is to be determined by the Court in accordance with customary international law". Peru stated that, "since the 1980s, [it] has consistently endeavoured to negotiate the various issues in dispute, but ... has constantly met a refusal from Chile to enter into negotiations". It asserted that a note dated 10 September 2004 from the Minister for Foreign Affairs of Chile addressed to the Minister for Foreign Affairs of Peru made further attempts at negotiation impossible.

189. Peru consequently "requests the Court to determine the course of the boundary between the maritime zones of the two States in accordance with international law ... and to adjudge and declare that Peru possesses exclusive sovereign rights in the maritime area situated within the limit of 200 nautical miles from its coast but outside Chile's exclusive economic zone or continental shelf".

190. As basis for the Court's jurisdiction, Peru invokes article XXXI of the Pact of Bogotá of 30 April 1948, to which both States are parties without reservation.

191. By an order of 31 March 2008, the Court fixed 20 March 2009 and 9 March 2010 as the respective time limits for the filing of a memorial by Peru and a counter-memorial by Chile.

14. *Aerial Herbicide Spraying (Ecuador v. Colombia)*

192. On 31 March 2008, Ecuador filed an application instituting proceedings against Colombia with respect to a dispute concerning the alleged "aerial spraying [by Colombia] of toxic herbicides at locations near, at and across its border with Ecuador".

193. Ecuador maintained that "the spraying has already caused serious damage to people, to crops, to animals and to the natural environment on the Ecuadorian side of the frontier, and poses a grave risk of further damage over time". It further contended that it had made "repeated and sustained efforts to negotiate an end to the fumigations" but that "these negotiations have proved unsuccessful".

194. Ecuador accordingly requested the Court

> to adjudge and declare that:
>
> (a) Colombia has violated its obligations under international law by causing or allowing the deposit on the territory of Ecuador of toxic herbicides that have caused damage to human health, property and the environment;
>
> (b) Colombia shall indemnify Ecuador for any loss or damage caused by its internationally unlawful acts, namely the use of herbicides, including by aerial dispersion, and in particular:

[2] Treaty between Chile and Peru for the settlement of the dispute regarding Tacna and Arica, signed at Lima on 3 June 1929.

(i) death or injury to the health of any person or persons arising from the use of such herbicides; and

(ii) any loss of or damage to the property or livelihood or human rights of such persons; and

(iii) environmental damage or the depletion of natural resources; and

(iv) the costs of monitoring to identify and assess future risks to public health, human rights and the environment resulting from Colombia's use of herbicides; and

(v) any other loss or damage; and

(c) Colombia shall:

(i) respect the sovereignty and territorial integrity of Ecuador; and

(ii) forthwith, take all steps necessary to prevent, on any part of its territory, the use of any toxic herbicides in such a way that they could be deposited onto the territory of Ecuador; and

(iii) prohibit the use, by means of aerial dispersion, of such herbicides in Ecuador, or on or near any part of its border with Ecuador.

195. As basis for the Court's jurisdiction, Ecuador invoked article XXXI of the Pact of Bogotá of 30 April 1948, to which both States are parties. Ecuador also relied on article 32 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

196. In its application, Ecuador reaffirmed its opposition "to the export and consumption of illegal narcotics" but stressed that the issues it presented to the Court "relate exclusively to the methods and locations of Colombian operations to eradicate illicit coca and poppy plantations — and the harmful effects in Ecuador of such operations".

197. By an order of 30 May 2008, the Court fixed 29 April 2009 and 29 March 2010 as the respective time limits for the filing of a memorial by Ecuador and a counter-memorial by Colombia.

15. *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning* Avena and Other Mexican Nationals (Mexico v. United States of America) *(Mexico* v. *United States of America)*

198. On 5 June 2008, Mexico filed a request for interpretation of the judgment delivered on 31 March 2004 by the Court in the case concerning *Avena and Other Mexican Nationals* (*Mexico* v. *United States of America*).

199. Mexico invoked Article 60 of the Statute of the Court, which provides "In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party". A request for interpretation opens a new case. Mexico noted that the Court had ruled in previous cases that its jurisdiction to provide an interpretation of one of its own judgments "[was] a special jurisdiction deriving directly from Article 60 of the Statute".

200. In its request, Mexico recalled that, in the *Avena* Judgment, the Court, inter alia, had found "that the United States had breached article 36 of the Vienna

Convention [on Consular Relations] in the cases of 51 of the Mexican nationals by failing to inform them ... of their rights to consular access and assistance" and that the Court had determined, in paragraph 153 (9) of the Judgment, the remedial obligations incumbent upon the United States. Mexico contended that "a fundamental dispute" had arisen "between the parties as to the scope and meaning" of paragraph 153 (9) and that the Court needed "to provide guidance to the parties". It therefore sought the interpretation of said paragraph, which reads as follows:

> 153. For these reasons,
>
> The Court,
>
> (9) By fourteen votes to one,
>
> *Finds* that the appropriate reparation in this case consists in the obligation of the United States of America to provide, by means of its own choosing, review and reconsideration of the convictions and sentences of the Mexican nationals referred to in subparagraphs (4), (5), (6) and (7) above, by taking account both of the violation of the rights set forth in article 36 of the [Vienna] Convention [on Consular Relations] and of paragraphs 138 to 141 of [the present] Judgment."

201. In its request for interpretation, Mexico stated that it "understands the operative language ... of the *Avena* Judgment to establish an obligation of result incumbent upon the United States", while "it is clear that the United States understands the Judgment to constitute merely an obligation of means". Mexico argued that "while the United States may use 'means of its own choosing' under paragraph 153 (9) [of the Court's Judgment], the obligation to provide review and reconsideration is not contingent on the success of any one means. As a result, the United States cannot rest on a single means chosen; it must provide the requisite review and reconsideration and prevent the execution of any Mexican national named in the Judgment unless and until that review and reconsideration is completed and it is determined that no prejudice resulted from the violation". Mexico further asserted that "requests by the Mexican nationals for the review and reconsideration mandated in their cases by the *Avena* Judgment have repeatedly been denied". It also stated that "[o]n 25 March 2008, the Supreme Court of the United States determined in the case of José Ernesto Medellín Rojas ... that the Judgment itself did not directly require United States courts to provide review and reconsideration under domestic law" and that, "while expressly recognizing the obligation of the United States to comply with the Judgment under international law, [it] further held that the means chosen by the President of the United States to comply were unavailable under the United States Constitution and indicated alternate means involving legislation by the United States Congress or voluntary compliance by the State of Texas". Mexico added that "it understands the obligation of the United States under paragraph 153 (9) to extend to taking the steps set forth by the Supreme Court, including legislative action at the federal or state levels or compliance by state courts or the state legislatures".

202. In its request for interpretation, Mexico went on to explain that, since the decision of the Supreme Court was issued, "Texas ... has scheduled Mr. Medellín for execution on 5 August 2008". It insisted that "[t]he actions of Texas, a political subdivision of the United States, engage the international responsibility of the United States" and that "the United States cannot invoke its municipal law as

justification for failure to perform its international legal obligation under the *Avena* Judgment". It also observes that "at least four more Mexican nationals are also in imminent danger of having execution dates set by the State of Texas".

203. Accordingly, Mexico asked the Court:

> to adjudge and declare that the obligation incumbent upon the United States under paragraph 153 (9) of the *Avena* Judgment constitutes an obligation of result as it is clearly stated in the Judgment by the indication that the United States must provide "review and reconsideration of the convictions and sentences" but leaving it the "means of its own choosing"

and that, pursuant to the foregoing obligation of result,

> (1) the United States must take any and all steps necessary to provide the reparation of review and reconsideration mandated by the *Avena* Judgment; and
>
> (2) the United States must take any and all steps necessary to ensure that no Mexican national entitled to review and reconsideration under the *Avena* Judgment is executed unless and until that review and reconsideration is completed and it is determined that no prejudice resulted from the violation.

204. Mexico's request for interpretation was accompanied by a request for the indication of provisional measures on the ground that such measures "are clearly justified in order both to protect [its] paramount interest in the life of its nationals and to ensure the Court's ability to order the relief Mexico seeks".

205. Mexico requested the Court to indicate the following measures:

> (a) that the Government of the United States take all measures necessary to ensure that José Ernesto Medellín, César Roberto Fierro Reyna, Rubén Ramírez Cárdenas, Humberto Leal García and Roberto Moreno Ramos are not executed pending the conclusion of the proceedings instituted this day;
>
> (b) that the Government of the United States inform the Court of all measures taken in implementation of subparagraph (a); and
>
> (c) that the Government of the United States ensure that no action is taken that might prejudice the rights of Mexico or its nationals with respect to any interpretation this Court may render with respect to paragraph 153 (9) of its *Avena* Judgment.

206. Public hearings were held on 19 and 20 June 2008 in order to hear the oral arguments of the parties regarding the request for the indication of provisional measures. By an order of 16 July 2008, the Court:

> I. By seven votes to five,
>
> *Finds* that the submission by the United States of America seeking the dismissal of the application filed by the United Mexican States cannot be upheld;
>
> *In favour*: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Koroma, Abraham, Sepúlveda-Amor, Bennouna;
>
> *Against*: Judges Buergenthal, Owada, Tomka, Keith, Skotnikov;

II. *Indicates* the following provisional measures:

(a) By seven votes to five,

The United States of America shall take all measures necessary to ensure that Messrs. José Ernesto Medellín Rojas, César Roberto Fierro Reyna, Rubén Ramírez Cárdenas, Humberto Leal García and Roberto Moreno Ramos are not executed pending judgment on the request for interpretation submitted by the United Mexican States, unless and until these five Mexican nationals receive review and reconsideration consistent with paragraphs 138 to 141 of the Court's Judgment delivered on 31 March 2004 in the case concerning *Avena and Other Mexican Nationals* (*Mexico* v. *United States of America*);

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Koroma, Abraham, Sepúlveda-Amor, Bennouna;

Against: Judges Buergenthal, Owada, Tomka, Keith, Skotnikov;

(b) By eleven votes to one,

The Government of the United States of America shall inform the Court of the measures taken in implementation of [the present] Order;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Koroma, Owada, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov;

Against: Judge Buergenthal;

III. By eleven votes to one,

Decides that, until the Court has rendered its judgment on the Request for interpretation, it shall remain seized of the matters which form the subject of [the present] Order;

In favour: President Higgins; Vice-President Al-Khasawneh; Judges Ranjeva, Koroma, Owada, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov;

Against: Judge Buergenthal.

207. After ascertaining the views of the parties, the Court, pursuant to article 98, paragraph 3, of the Rules of Court, fixed 29 August 2008 as the time limit for the filing by the United States of written observations on the request of Mexico for interpretation. It reserved the right, after the written observations of the United States had been filed, to afford the parties the opportunity of furnishing further written explanations, as provided for in paragraph 4 of the aforementioned article 98.

Chapter VI
Visits to the Court

208. During the period under review, the Court was paid a visit by Her Royal Highness Princess Astrid of Belgium on 11 June 2008. The Princess was welcomed by the Registrar of the Court, Philippe Couvreur, of Belgian nationality, who presented to her the Belgian staff members of the Registry. She was then received by the President of the Court, Judge Rosalyn Higgins, who presented to her a number of colleagues on the Bench and showed her the Court's deliberation room. A luncheon was held in honour of the Princess, attended by members of the Court and of the International Tribunal for the Former Yugoslavia, to which the Princess had paid a visit that morning.

209. After the luncheon, Princess Astrid had a private discussion with the President and the Registrar concerning the recent activity of the Court and issues of international humanitarian law. The Registrar then escorted her on a tour of the principal features of the Peace Palace.

210. In addition, during the period under review, the President and members of the Court, as well as the Registrar and Registry officials, welcomed a large number of dignitaries, including members of governments, diplomats, parliamentary representatives, presidents and members of judicial bodies and other senior officials, to the seat of the Court.

211. A noticeable trend has been increasingly frequent interest by leading national and regional courts in coming to the Court for an exchange of ideas and views. An inter-court colloquium was held in The Hague on 3 December 2007 with the Court of Justice of the European Communities, the European Court of Human Rights and the International Tribunal for the Former Yugoslavia. Another, with the International Tribunal for the Law of the Sea, was held on 26 February 2008. The Court has also pursued electronic exchanges of relevant information with a range of other courts and tribunals.

212. Many visits were also made by national judges, senior legal officials, researchers, academics, lawyers and other members of the legal profession, as well as by others, including journalists, students and members of the public. For many of these, presentations were made by the President and/or members of the Court.

Chapter VII

Addresses on the work of the Court

213. On 1 November 2007, the President of the Court, Judge Higgins, addressed the General Assembly at the 42nd plenary meeting of its sixty-second session, on the occasion of the presentation of the Court's annual report. On 2 November 2007, she also addressed the Sixth Committee of the General Assembly and was invited to speak before the Security Council during a private meeting.

214. While in New York, Judge Higgins addressed a meeting of legal advisers of Ministries of Foreign Affairs on 29 October 2007. She also met with the Secretary-General of the Asian-African Legal Consultative Organization and circulated a speech to the members of that organization on 5 November 2007.

215. On 19 May 2008, the President of the Court delivered a speech in Geneva on the occasion of the sixtieth anniversary of the International Law Commission.

216. Judge Higgins also made official visits to Morocco in connection with the fiftieth anniversary of the Supreme Court, and to the United Arab Emirates, where she gave a number of lectures.

217. She also gave speeches at various colloquiums held in the Netherlands, the United Kingdom and Sweden.

218. On 22 July 2008, President Higgins addressed the members of the International Law Commission in Geneva.

Chapter VIII
Publications, documents and website of the Court

219. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, and to the major law libraries of the world. The sale of those publications is organized chiefly by the sales and marketing sections of the United Nations Secretariat in New York and Geneva. A catalogue (together with a price list) published in English and French is distributed free of charge. A revised and updated version of the catalogue, containing the new 13-digit ISBN references for all of the publications of the Court, is under preparation and will be published in the second half of 2008.

220. The publications of the Court consist of several series, three of which are published annually: *Reports of Judgments, Advisory Opinions and Orders* (published in separate fascicles and as a bound volume), the *Yearbook* (French version, *Annuaire*) and the *Bibliography* of works and documents relating to the Court. At the time of preparation of the present report, certain fascicles in the *Reports* series for 2007 had been printed or were at various stages of production. The fascicles for the period from January to mid-May 2008 were already available. The bound volumes of *Reports 2004, 2005* and *2006* will appear as soon as the indices have been printed. The *Yearbook 2004-2005* was printed in the period under review, while the *Yearbook 2005-2006* was being finalized. The *Bibliography of the International Court of Justice*, No. 54 was under preparation.

221. The Court also prepares bilingual printed versions of the instruments instituting proceedings in cases before it (applications instituting proceedings and special agreements), as well as requests for an advisory opinion. In the period under review, the Court received three applications instituting proceedings, which are currently being printed.

222. The written pleadings in each case are published by the Court after the end of the proceedings, in the series *Pleadings, Oral Arguments, Documents*. The annexes to the pleadings and the correspondence in contentious cases are now published only exceptionally, as far as they are essential for the understanding of the decisions taken by the Court. Several volumes in this series are currently at various stages of production.

223. In the series *Acts and Documents concerning the Organization of the Court*, the Court also publishes the instruments governing its functioning and practice. The most recent edition, No. 6, which was completely updated and contains the practice directions adopted by the Court, was published in 2007. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. Unofficial translations of the Rules (without the amendments of 5 December 2000) are also available in Arabic, Chinese, German, Russian and Spanish.

224. The Court distributes press releases, summaries of its decisions, and a handbook in order to keep the legal world, university teachers and students, government officials, the press and the general public informed of its work, functions and jurisdiction. The fifth edition of the handbook ("Blue Book") was issued in January 2006 in the Court's two official languages, French and English. Arabic, Chinese, Russian and Spanish translations of a previous version were issued in 1990. Arabic, Chinese, Dutch, English, French, Russian and Spanish editions of a general information booklet on the Court, produced in cooperation with the

Department of Public Information of the United Nations Secretariat and intended for the general public, have also been published. In addition, a special publication, *The Illustrated Book of the International Court of Justice* was issued in English and French in 2006.

225. To increase and expedite the availability of Court documents and reduce communication costs, the Court had launched a new website on 25 September 1997. After two years of hard work, the Court in 2007 launched a dynamic, revamped and enhanced version of the site, which contained five times more information than the previous version.

226. User friendly, with a powerful search engine, the site makes it possible to access the Court's entire jurisprudence since 1946, as well as that of its predecessor, the Permanent Court of International Justice, along with the principal documents from the written and oral proceedings of various cases, press releases, some basic documents (Charter of the United Nations, Statute and Rules of the Court and Practice Directions), declarations recognizing the Court's compulsory jurisdiction and a list of treaties and other agreements relating to that jurisdiction, general information on the Court's history and procedure, biographies of the judges and the Registrar, information on the organization and functioning of the Registry, and a catalogue of publications. The site offers detailed information for those wishing to visit the Court, including a calendar of events and hearings, directions to the Peace Palace and online admission forms for groups wishing to attend hearings or presentations on the activities of the Court. It also has pages concerning vacancy announcements and internship opportunities. Finally, a virtual press room has been set up, where representatives of the media can find all information necessary to cover the work of the Court and accredit themselves for hearings. A photo gallery is permanently available, from which high-resolution digital photos can be downloaded free of charge for non-commercial use. In the future, audio and video material from hearings and readings of decisions will also be accessible. The site is available in the two official languages of the Court. Given the Court's worldwide scope and in order to enhance the global accessibility of information about it, a number of documents are now also available in the four other official languages of the United Nations. The website can be visited at http://www.icj-cij.org.

227. Since 1999, the Court has offered individuals and institutions interested in its work an e-mail notification service for the press releases published on its website.

Chapter IX
Finances of the Court

A. Method of covering expenditure

228. In accordance with Article 33 of the Statute of the Court, "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly". As the budget of the Court has been incorporated in the budget of the United Nations, Member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

229. Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the sales sections of the Secretariat), bank interest etc., are recorded as United Nations income.

B. Drafting of the budget

230. In accordance with articles 26 to 30 of the Instructions for the Registry, a preliminary draft budget is prepared by the Registrar. This preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then for approval to the Court itself.

231. Once approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of decisions concerning the budget of the United Nations.

C. Financing of appropriations and accounts

232. The Registrar is responsible for executing the budget, with the assistance of the Head of the Finance Division. The Registrar has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget. The Registrar alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority. In accordance with a decision of the Court, adopted on the recommendation of the Subcommittee on Rationalization, the Registrar now communicates every three months a statement of accounts to the Budgetary and Administrative Committee of the Court.

233. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly and, periodically, by the internal auditors of the United Nations. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations.

D. Budget of the Court for the biennium 2008-2009

234. Regarding the budget for the 2008-2009 biennium, the Court is pleased to note that its requests for new posts were accepted in part. The presence of a second P-5

official in the Department of Legal Matters has enabled the Registry to fulfil more effectively, to the requisite standard of quality and within the time limits, its numerous responsibilities in support of the administration of justice. The Court was also granted three of the nine law clerk posts that it had requested, which has to a certain extent facilitated the exercise of its judicial duties. Finally, a temporary post of indexer/bibliographer was added to the staff of the Library of the Court.

Budget for the biennium 2008-2009

(United States dollars)

Programme	
Members of the Court	
0311025 Allowances for various expenses	849 400
0311023 Pensions	3 030 900
0393909 Duty allowance: judges ad hoc	455 100
2042302 Travel on official business	42 300
0393902 Emoluments	5 151 200
Subtotal	**9 528 900**
Registry	
0110000 Established posts	13 989 000
0170000 Temporary posts for the biennium	2 615 300
0200000 Common staff costs	6 973 500
0211014 Representation allowance	7 200
1210000 Temporary assistance for meetings	1 936 400
1310000 General temporary assistance	220 300
1410000 Consultants	139 200
1510000 Overtime	101 700
2042302 Official travel	39 100
0454501 Hospitality	20 300
Subtotal	**26 042 000**
Programme support	
3030000 External translation	273 100
3050000 Printing	702 200
3070000 Data-processing services	370 600
4010000 Rental/maintenance of premises	2 688 600
4030000 Rental of furniture and equipment	60 300
4040000 Communications	281 200
4060000 Maintenance of furniture and equipment	230 700
4090000 Miscellaneous services	27 700
5000000 Supplies and materials	294 700
5030000 Library books and supplies	193 300

Programme	
6000000 Furniture and equipment	169 300
6025041 Acquisition of office automation equipment	59 400
6025042 Replacement of office automation equipment	233 800
6040000 Replacement of the Court's vehicles	44 600
Subtotal	**5 629 500**
Total	**41 200 400**

Chapter X

Examination by the General Assembly of the previous report of the Court

235. At the 42nd plenary meeting of the sixty-second session of the General Assembly, held on 1 November 2007, at which the Assembly took note of the report of the Court for the period from 1 August 2006 to 31 July 2007, the President of the Court, Judge Rosalyn Higgins, addressed the Assembly on the role and functioning of the Court (see A/62/PV.42).

236. In her address, President Higgins explained that the Court had essentially reached its goal of clearing its backlog of cases by 2008. She added that "States thinking of coming to the . . . Court can today be confident that as soon as they have finished their written exchanges, [the Court] will be able to move to the oral stage in a timely manner". She further stated that "some occasional delay in bringing on the oral hearings" would now be "a product of the choice of the States to ask for a further written round, and not of any backlog in the Court".

Review of the previous judicial year

237. The President of the Court recalled that, between 1 August 2006 and 31 July 2007, the Court had been seized of one new case (*Certain Questions of Mutual Assistance in Criminal Matters* (*Djibouti* v. *France*)) and had rendered two judgments: one in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Serbia and Montenegro*) and another in the case concerning *Ahmadou Sadio Diallo* (*Republic of Guinea* v. *Democratic Republic of the Congo*). Within the period under review, Judge Higgins added, the Court had also made an order on provisional measures and had held hearings in three cases.

238. The President of the Court further explained that the Court had handed down a judgment in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea* (*Nicaragua* v. *Honduras*) just a few weeks previously.

A gesture sought from the United Nations

239. Highlighting the Court's "prodigious effort" to maintain its current efficiency, President Higgins reiterated the Court's request for the creation of nine P-2 law clerk posts in order to "achieve a full complement of one law clerk for each member of the Court". Judge Higgins stressed that "it remain[ed] the case that [members of the Court needed] a law clerk each in view of the increasing number of fact-intensive cases and the rising importance of researching and evaluating diverse materials". She conceded, however, that "if [the Court was] granted a limited number of extra law clerks, of course that will be an appreciated gesture by the United Nations".

240. The President of the Court expressed concern regarding the adoption of General Assembly resolution 61/262, which could seriously affect the conditions of

service of members of the Court in that it "would create inequality among judges, which is prohibited under [the Court's] Statute" (see also para. 21 above).

241. Following the President's presentation of the Court's report, statements were made by the representatives of Algeria, Egypt, Honduras, India, Japan, Kenya, Malaysia, Mexico, New Zealand (on behalf of Australia, Canada and New Zealand), Nicaragua, Nigeria, Pakistan, Peru, the Philippines, Portugal (on behalf of the States Members of the United Nations that are members of the European Union), the Republic of Korea, South Africa and the Sudan.

242. More comprehensive information on the work of the Court during the period under review will be found in the *Yearbook 2007-2008*, which will be issued at a later date.

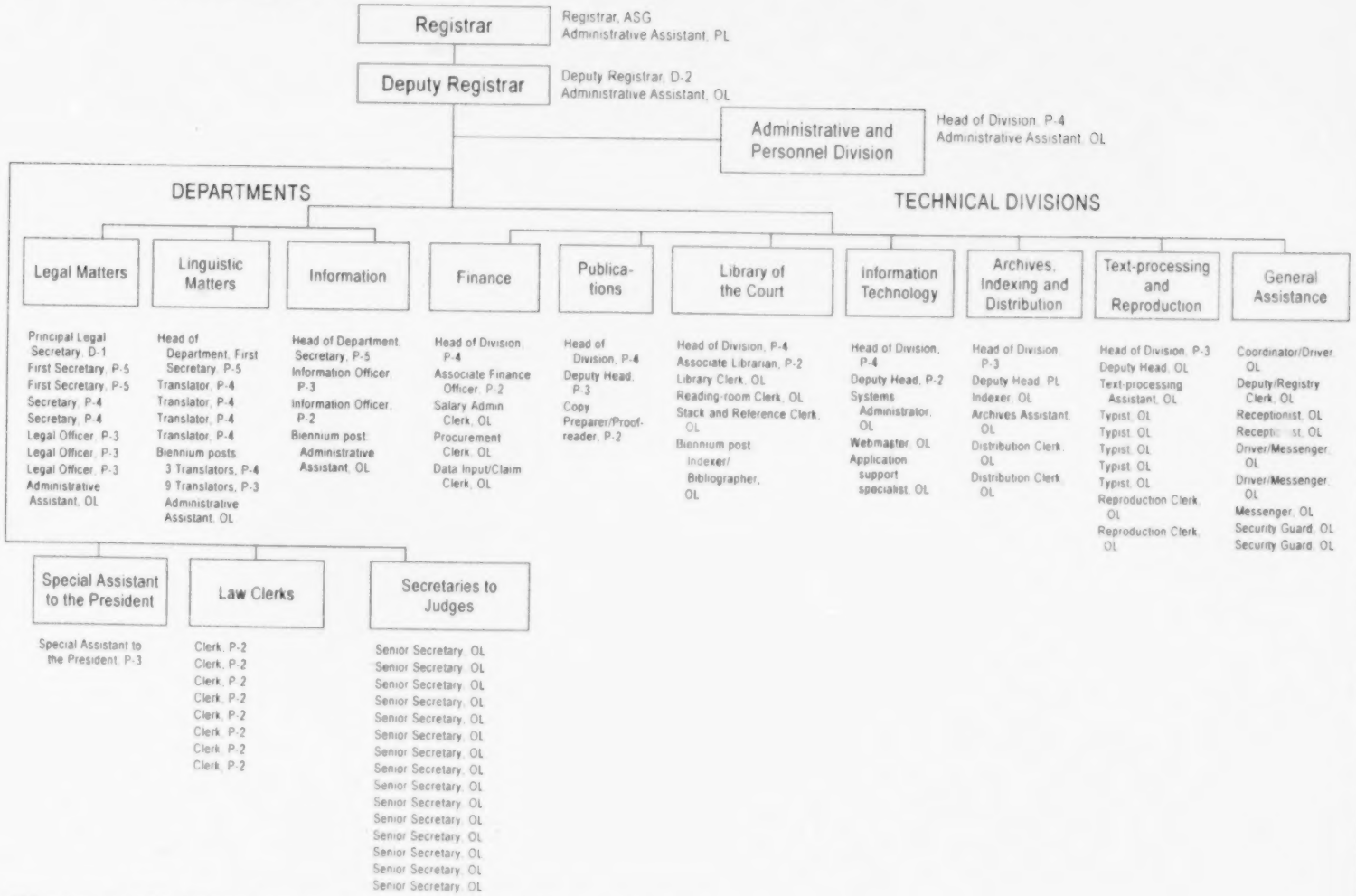
(*Signed*) Rosalyn **Higgins**
President of the International Court of Justice

The Hague, 1 August 2008

08-45379 (E) 071008

Annex

International Court of Justice: organizational structure and post distribution as at 31 July 2008



Abbreviations: ASG, Assistant Secretary-General; PL, Principal level; OL, Other level.